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PENSION BULLETIN

JANUARY 2005 – VOLUME 14, ISSUE 1

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The Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 as amended, the Pension Benefits Act, R.S.O. 1990, c. P.8 as amended, R.R.O. 1990, Reg. 909 as amended, the terms of the pension plan and trust, if any, and the policies, procedures and practices of FSCO should be considered in determining specific legal requirements, and professional advice should be sought.

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GENERAL ANNOUNCEMENTS

CAPSA Governance Guidelines

On October 25, 2004, the Canadian Association of Pension Supervisory Authorities (CAPSA) released the Pension Plan Governance Guidelines and Self-Assessment Questionnaire. Developed for use by pension plans of all types and sizes, the guidelines are intended to help pension plans implement and maintain effective governance practices.

CAPSA Guideline No. 4, the Pension Plan Governance Guidelines and Self-Assessment Questionnaire, is available on the CAPSA website at: www.capsa-acor.org.



Joint Forum Guidelines for Capital Accumulation Plans

On May 28, 2004, the Joint Forum of Financial Market Regulators released Guidelines for Capital Accumulation Plans (CAPs). The Guidelines apply to all CAPs in Canada, including defined contribution pension plans. It is expected that all CAPs will be operating in accordance with the CAP Guidelines by December 31, 2005.

The CAP Guidelines have been adopted by the Canadian Association of Pension Supervisory Authorities (CAPSA) as CAPSA Guideline No. 3. Copies may be found on both the CAPSA website at: www.capsa-acor.org, and the Joint Forum website at: www.jointforum.ca.



Pension Division - Staff Changes

Irene Mook-Sang and Rosemin Jiwa-Jutha have accepted the newly created positions of Manager, Pension Operations, in the Pension Plans Branch.

Marion Gassenauer has accepted the assignment of Assistant Pension Officer. Janice Juba has accepted the assignment of Pension Analyst. Salim Hajee has accepted the assignment of Pension Officer. Tim Thompson has returned to the Division part time as a Pension Officer.



Vendor of Record Arrangement - Administrator Appointments for Defined Benefit Plans of Insolvent Employers

The Financial Services Commission of Ontario (FSCO) maintains a roster of firms from which the Superintendent of Financial Services (the Superintendent) selects and appoints administrators to wind up defined benefit plans of insolvent employers. The Superintendent makes such appointments pursuant to his authority under section 71 of Ontario's Pension Benefits Act.

FSCO will, in the near future, re-establish the roster by issuing a Request for Proposals (RFP) through MERX™, the electronic tendering system used by the Government of Ontario, for the establishment of a Vendor of Record (VOR) arrangement, whereby the services of qualified firms (vendors) who are able to act as administrators of pension plans are available to the Superintendent, at the option of the Superintendent, and on short notice. For further information about MERX™ call 1-800-964-MERX or visit the MERX™ website at www.merx.com.

The RFP will provide a description of the services to be provided, the stages of proposal evaluation, including mandatory requirements and rated criteria, and the terms and conditions of the RFP process.

The number of placements on the roster will be limited. Vendors who are selected will be placed on the roster for approximately four (4) years from the date of selection with the option in favour of the Superintendent to extend this period for an additional period of one (1) year on the same terms and conditions. The Superintendent reserves the right to make specific plan appointments outside the VOR arrangement where the Superintendent considers that circumstances warrant it.



COURT/PROSECUTION MATTERS

The information set out below is current to November 22, 2004.

Court Matters

1. National Steel Car Limited

The Superintendent consented to the transfer of assets from the Amended Pension Plan for Salaried Employees of National Steel Car Limited (the "Salaried Plan") to the Amended Pension Plan for Hourly Employees of National Steel Car Limited (the "Hourly Plan"). The Superintendent's consent was given after submissions opposing the transfer were made by some members of the Salaried Plan. The letter giving the consent stated that anyone dissatisfied with the consent could request a hearing before the Financial Services Tribunal (FST). A hearing was requested.

The FST held the hearing on January 15 to 17, 2002. On May 31, 2002, the FST released its decision. In response to a motion brought by National Steel Car at the hearing, a majority decision held that the FST has no jurisdiction to conduct a hearing where the Superintendent has consented to the transfer of assets, relying upon the express wording of subsection 89(4). One panel member dissented, finding that there was jurisdiction based on the HOOPP and other cases and on a purposive reading of the PBA. The panel unanimously found that if there was jurisdiction, the Superintendent's consent would have been upheld, as surplus was not an "other benefit" to be considered under subsection 81(5) of the PBA.

The Salaried Plan members have appealed the FST's decision to the Divisional Court. The appeal was heard on September 13 and 14, 2004. The court orally allowed the appeal on the jurisdictional issue, stating that reasons would be released later. These reasons have not yet been released. The court reserved its decision on the transfer issue.

2. Marshall-Barwick Limited

The FST held a hearing in this matter on September 9, 2002. The issue at this hearing was whether a Notice of Proposal proposing to refuse to approve the partial wind up report (because a member allegedly terminated for cause was not included in the partial wind up group) should be upheld. The FST released its decision on November 29, 2002, upholding the Superintendent's Notice of Proposal and directing the Administrator to file a revised wind up report that includes, in the partial wind up group, the member terminated for cause.

The company has appealed the FST's decision to the Divisional Court. No date has been set for hearing the appeal.

3. Plumbers Local 463 Pension Plan

The board of trustees of the Plumbers Local 463 Pension Plan has filed an application for judicial review in respect of an order issued by the Superintendent on October 6, 2003 requiring the trustees to pay the cost of an examination of the Plan out of the fund for the Plan. No hearing date has been set.

4. Donohue Forest Products Inc.

The spouse of a deceased Plan member requested a hearing before the FST with respect to a Notice of Proposal issued by the Superintendent on November 8, 2002, which refused to order the Plan Administrator to recalculate the pre-retirement death benefit owing. The hearing took place July 2, 2003 and September 22 and 25, 2003. The FST released its decision on January 9, 2004, finding that the Notice of Proposal should be affirmed. The applicant has appealed the FST's decision to the Divisional Court. The Divisional Court heard and dismissed the appeal on November 10, 2004. The applicant has filed a Notice of Motion for leave to appeal the Divisional Court's decision to the Court of Appeal.

5. Kerry (Canada) Inc.

The FST conducted a hearing that arose from a Notice of Proposal in which the Superintendent of Financial Services proposed to order Kerry (Canada) Inc. to reimburse certain expenses paid from the pension fund and to amend its Pension Plan so that only expenses for the exclusive benefit of the members could be paid from the fund.

The FST released its decision on March 4, 2004. The FST held that certain expenses were to be reimbursed to the fund, while certain other expenses did not have to be reimbursed as they were incurred for the exclusive benefit of the members. The FST also held that there was no jurisdiction under the PBA for the Superintendent to order a plan amended.

A group of former members comprising the DCA Employees Pension Committee for the Pension Plan for the Employees of Kerry (Canada) Inc. has appealed the FST's decision. The appeal is scheduled to be heard on March 31 and April 1, 2005.

6. Participating Co-Operatives of Ontario Trustee Pension Plan

The board of trustees of the Participating Co-Operatives of Ontario Trustee Pension Plan filed an application before the Divisional Court under Rule 14 of the *Rules of Civil Procedure*, the *Pension Benefits Act* and the *Trustees Act* for the appointment of replacement trustees or an administrator and a declaration discharging the current Trustees. The application is scheduled to be heard on February 3, 2005.

Prosecution Matters

1. Mutual/Hadwen Imaging Technologies Inc.

Charges were laid against the employer, successor employer and two corporate officers for the employer and successor employer for failing to remit employer and employee contributions. The first appearance was on April 14, 2004. Trial dates have been set for January 17 to 21, 2005.

remit employer and employee contributions. The remaining charges were withdrawn. The employer was fined \$3,500, exclusive of victim fine surcharge. The corporate officer received a suspended sentence and was placed on probation for one year.

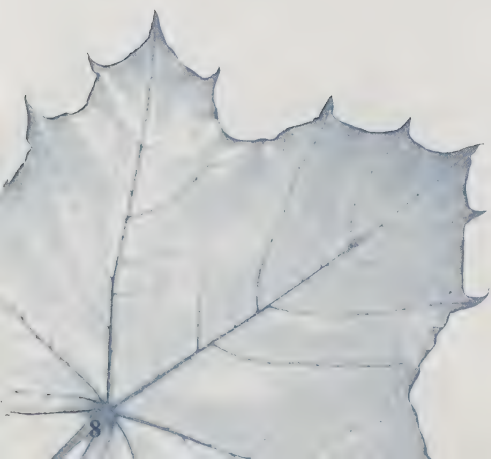
2. Cleaver-Books of Canada Ltd.

Charges were laid against the corporation for failing to file a financial statement for the fiscal years ending 2000, 2001 and 2002 with respect to the Pension Plan for Hourly Employees of Cleaver -Brooks of Canada. The first appearance was held on July 13, when the matter was adjourned to August 11, 2004. On October 13, 2004, the corporation pleaded guilty to all three counts and was fined a total of \$6,000, exclusive of the victim fine surcharge.

3. Whiz-a-Top Services Ltd.

Charges were laid against the employer and one of its directors with respect to the Registered Pension Plan for the Employees of Whiz-a-Top Services Limited, for failing to remit employer and employee contributions and failing to pay the filing fee for the Annual Information Return for the 2001 and 2002 fiscal years. The first appearance was on September 15, 2004. On November 24, 2004, the employer and its corporate officer each pleaded guilty to the two counts of failing to







LEGISLATIVE CHANGES / REGULATORY POLICIES

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Locked-In Accounts
INDEX NO.:	L200-401
TITLE:	2005 LIF Maximum Payment Amount Table
APPROVED BY:	Deputy Superintendent, Pensions
PUBLISHED:	FSCO website (December 2004)
EFFECTIVE DATE:	January 1, 2005

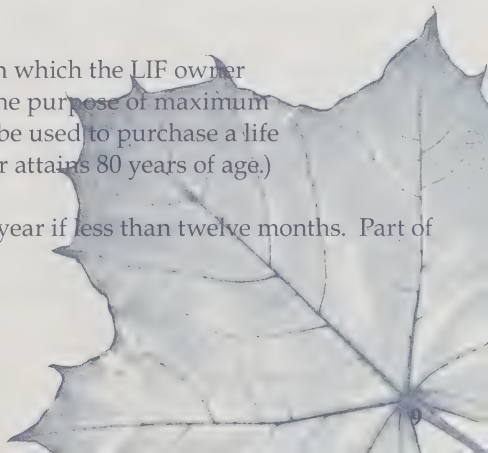
Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

The table on the following page has been prepared by the Financial Services Commission of Ontario (FSCO). Additional copies of this table and copies of policies published by FSCO about the Ontario LIF are available on FSCO's website at: www.fSCO.gov.on.ca, or may be picked up in person at the reception desk, 4th Floor, 5160 Yonge Street, North York, Ontario.

Interest assumptions used in the table on the following page:

- (1) 6.00%, which represents the greater of the CANSIM B14013 rate for November 2004 (4.87%) and 6.00% for the first 15 years, and
- (2) 6.00% for the years remaining to the end of the year in which the LIF owner attains 90 years of age. (Assumption to age 90 is for the purpose of maximum payment calculation only. The balance of a LIF must be used to purchase a life annuity by the end of the year in which the LIF owner attains 80 years of age.)

Percentages shown must be prorated for the initial fiscal year if less than twelve months. Part of a month is treated as a full month.



2005 Maximum Annual Payment Amount Table for an Ontario Life Income Fund (LIF)

Age at January 1, 2005	New Age During 2005	Years to End of Year Age 90 is Attained	Maximum Payment as a Percentage of the LIF Balance as at January 1, 2005*
48	49	42	6.20%
49	50	41	6.23%
50	51	40	6.27%
51	52	39	6.31%
52	53	38	6.35%
53	54	37	6.40%
54	55	36	6.45%
55	56	35	6.51%
56	57	34	6.57%
57	58	33	6.63%
58	59	32	6.70%
59	60	31	6.77%
60	61	30	6.85%
61	62	29	6.94%
62	63	28	7.04%
63	64	27	7.14%
64	65	26	7.26%
65	66	25	7.38%
66	67	24	7.52%
67	68	23	7.67%
68	69	22	7.83%
69	70	21	8.02%
70	71	20	8.23%
71	72	19	8.45%
72	73	18	8.71%
73	74	17	9.00%
74	75	16	9.34%
75	76	15	9.71%
76	77	14	10.15%
77	78	13	10.66%
78	79	12	11.25%
79	80	11	11.96%

- The maximum annual payment percentage is calculated on the basis of a twelve-month fiscal year to December 31, 2005 using the interest assumptions on the previous page.



Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Surplus
INDEX NO.:	S900-510
TITLE:	Application by Employer for Payment of Surplus on Full Wind Up of a Pension Plan - PBA ss. 78 and 79 - Regulation 909 s. 8
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (September 2004)
EFFECTIVE DATE:	September 30, 2004
REPLACES:	S900-509

This policy replaces S900-509 with respect to the distribution of surplus to an employer on the full wind up of a pension plan. Policy S900-511 replaces S900-509 with respect to the distribution of surplus to an employer on a partial wind up of a pension plan.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

This policy sets out the procedure for filing an application to distribute surplus to an employer ("surplus application") with the Superintendent of Financial Services ("Superintendent") on a full plan wind up pursuant to section 78 of the PBA and section 8 of the Regulation. This policy and the application procedure set out here only apply where any of the surplus is distributed to the employer. While compliance with this policy is intended to facilitate the application process, the Superintendent has the ultimate authority to decide whether to consent to or reject an application, and the Superintendent is not bound by this policy.

Subsection 78(1) of the PBA provides that surplus may not be paid to an employer unless the Superintendent consents to the payment. The Superintendent shall not consent to

a surplus application until specific requirements and conditions have been satisfied. Statements and documents supporting the applicant's assertion that the requirements and conditions have been satisfied should be included in the surplus application to the Superintendent.

For the purposes of this policy, a reference to the wind up of a plan means the full wind up of the plan, unless otherwise noted.

General

The onus is on the applicant to satisfy the Superintendent that the surplus application meets the requirements of the PBA and the Regulation. The applicant should also demonstrate compliance with all relevant policies, procedures and administrative practices.

Policy S850-200 ("Filing Applications with the Superintendent of Financial Services") outlines the general procedure for filing those applications, including surplus applications, that were made to the Pension Commission of Ontario (the "PCO") in the first instance before the full proclamation of the FSCO Act.

It is the applicant's responsibility to decide whether plan-specific circumstances warrant the inclusion of additional information or documentation to support the surplus application. For example, additional information about members or former members or additional plan documentation may be relevant in the following circumstances:

- the source of all or a portion of the assets of the pension fund can be traced to the pension fund of another pension plan;
- all or a portion of the liabilities of a pension plan were converted to liabilities determined on another basis (a plan conversion);
- there was a partial wind up at any time prior to the date of the full wind up; or
- all or a portion of the liabilities of a pension plan relate to members, former members or other persons with employment in a jurisdiction other than Ontario.

If information necessary for the Superintendent to approve a surplus application is missing, the Superintendent will not be able to consent.

The content of this policy is set up under the following sections and headings:

DISTRIBUTION OF SURPLUS TO AN EMPLOYER ON FULL WIND UP

General Principles
Notice of the Surplus Application
Written Agreement
The Surplus Application
Filing the Surplus Application
Member Statement

SCHEDULE I

Surplus Application Format
and Explanatory Notes

SCHEDULE II

Certification of Compliance with Surplus Requirements of Other Jurisdictions

DISTRIBUTION OF SURPLUS TO AN EMPLOYER ON FULL WIND UP

GENERAL PRINCIPLES

1. Where an employer wants to be paid surplus on plan wind up, section 78 of the PBA provides that the employer must apply and that no payment may be made without the Superintendent's prior consent. Before the Superintendent can propose to consent to a surplus application, the applicant must satisfy the requirements of subsection 78(2) of the PBA concerning notice and disclosure of all plan provisions relevant to surplus entitlement on wind up. In addition, the requirements of subsections 79(3) and (4) of the PBA must be satisfied, as well as all the requirements of the Regulation.
2. Where the plan wind up results from an event affecting the employment of the members, all members participating in the plan on or after the date notice of the event is given must be included as members for purposes of the wind up, including the surplus distribution. This requirement applies even if a member terminates or is terminated after the notice date but prior to the event actually occurring.
3. In order to expedite the payment of basic benefits, an employer winding up a pension plan would generally not file a surplus application until after the payment

of basic benefits from the plan has been approved. Payment of basic benefits may be through a transfer of the basic benefits as provided under subsection 73(2) of the PBA, or the purchase of annuities.

The distribution of surplus to members may be provided by benefit enhancements or in cash. Where any surplus is to be distributed to the employer under the terms of a surplus sharing agreement, the surplus would be paid in cash after all other distributions have been made. FSCO must be notified when all assets of the plan have been distributed.

4. Compliance with the requirements of the FSCO Act, PBA, Regulation and conditions identified in any policy, procedure and administrative practice of the former PCO or of FSCO which affects the surplus application, is the responsibility of the applicant.
5. Applicants are responsible for ensuring that the information contained in the surplus application and any supporting documents is complete and accurate.

NOTICE OF THE SURPLUS APPLICATION

Content

6. The notice of the surplus application required by subsection 78(2) of the PBA (the "Surplus Notice") must include the information prescribed under subsection 28(5) of the Regulation.
7. With respect to clause 28(5)(c) of the Regulation (i.e., surplus attributable to employee and employer contributions),

the methodology used to determine the surplus attributable to employee and employer contributions should be consistent with policy S900-801 ("Surplus Attributable to Employer and Employee Contributions on Plan Wind Up").

8. With respect to clause 28(5)(e) of the Regulation (i.e., the statement that written submissions may be made to the Superintendent within 30 days of receipt of the Surplus Notice), the Surplus Notice must state that written submissions are to be directed to the Superintendent. In addition, the Surplus Notice should state that the Superintendent will provide copies of all submissions to the employer.
9. With respect to clause 28(5)(f) of the Regulation (i.e., authority for surplus reversion), there must be full and complete disclosure of all provisions of the plan and trust documentation from inception that may be relevant in determining entitlement to the payment of surplus on wind up, including provisions in all current and prior plan texts, trust agreements, insurance contracts, employee booklets, employee notices, collective bargaining agreements, information brochures and any other documents that may be relevant.

The actual wording of all the provisions from the plan and trust documentation from inception that may be relevant to surplus entitlement and to the question of authority to make plan amendments must be cited in the Surplus Notice, along with a full analysis of their implications. The Surplus Notice must also include

a complete historical analysis of all the plan, trust and other documentation that may be relevant to determine whether the plan constitutes a trust. If the plan at any time constituted a trust, the historical analysis must demonstrate that any amendment to the trust that has a bearing on surplus entitlement was valid.

Where the plan and trust documentation do not contain explicit provisions addressing surplus entitlement, this fact must also be disclosed in the Surplus Notice. As provided under subsection 47(10) of the Regulation, as of January 1, 1998, if the pension plan did not provide for the distribution of surplus on wind up, the applicant must refer to subsection 79(4) of the PBA and its consequences for the surplus application.

If a surplus application requires a court order pursuant to subsection 8(2) of the Regulation, the applicant should refer to the procedure under policy S900-600 ("Making Application Under ss. 7a(2)(c)").

10. The Surplus Notice must state that the application and the analysis of the plan documents were prepared by the applicant, and that affected members, former members or other persons may wish to obtain independent legal advice with respect to the application and the proposed surplus distribution agreement (the "Agreement") before they give any consent.
11. With respect to clause 28(5)(g) of the Regulation (i.e., notice concerning access

to copies of the wind up report), if the office or location where the members were employed is closed, the employer must make and communicate alternative arrangements for plan beneficiaries to review the wind up report filed with the Superintendent in support of the surplus request, either at a location close to the location(s) where business was conducted or through the provision of copies of the wind up report directly to plan beneficiaries.

12. If the Surplus Notice does not satisfy the requirements of the PBA and the Regulation, or the conditions identified in any policy, procedure or administrative practice of the former PCO or FSCO, or if there has not been complete, full and fair disclosure of all information that may be relevant, the Superintendent may give the employer the opportunity to re-transmit a modified Surplus Notice. The employer has a very high obligation of good faith to ensure that full and fair disclosure is given.
13. Subsection 28(5.1) of the Regulation requires that the employer file a copy of the Surplus Notice with the Superintendent before it is transmitted.

The Surplus Notice should be filed with the Superintendent by sending one (1) copy to:

Superintendent of Financial Services
Financial Services Commission of Ontario
5160 Yonge Street, 17th Floor
Box 85
North York ON M2N 6L9

14. With respect to paragraph 8, paragraph 18(d) and paragraph 30(j) of this policy, a copy of any written representations filed with the Superintendent will be forwarded to the employer.

Transmitting the Notice of the Surplus Application

15. After the employer files its Surplus Notice with the Superintendent, the employer is required to transmit the Surplus Notice to all persons listed in subsection 78(2) of the PBA. The employer must satisfy the Superintendent that full and fair notice has been given to those persons.
16. Transmittal must be by personal delivery or first class mail in accordance with subsection 112(1) of the PBA (see also paragraphs 17 and 18 of this policy).

Public Advertisement

17. The Superintendent may authorize delivery of the Surplus Notice by public advertisement or otherwise in accordance with subsection 112(3) of the PBA if the Superintendent is satisfied that it is not reasonable to give individual notice to all persons in accordance with paragraphs 15 and 16 of this policy.
18. Where an applicant requests the Superintendent's authorization to deliver the Surplus Notice by public advertisement, the information provided in the draft public advertisement submitted with the request to the Superintendent must clearly indicate the following:

- (a) to whom the Surplus Notice is addressed (e.g., former members and other persons entitled to payments from the wound up plan or any applicable predecessor plan(s));
- (b) the reason that these persons are being contacted (i.e., wind up of the pension plan in a surplus position and the surplus application);
- (c) where the details of the surplus application will be made available; and
- (d) information that persons to whom the Surplus Notice has been transmitted may make written representations to the Superintendent with respect to the surplus application within thirty (30) days after receiving the Surplus Notice and that the Superintendent will provide copies of all submissions to the employer.

WRITTEN AGREEMENT (SURPLUS APPLICATIONS PURSUANT TO CLAUSE 8(1)(b) OF THE REGULATION)

Content

19. When considering the surplus application, the Superintendent must be satisfied that the employer has:

- (a) provided the affected members, former members and other persons with full and fair disclosure in the copy of the Surplus Notice and the copy of the Agreement which have been provided to these persons;

- (b) provided the affected members, former members and other persons who are not currently represented by independent legal counsel with a reasonable opportunity to obtain independent legal advice with respect to the Surplus Notice and the Agreement;
- (c) given these persons sufficient time to consider the surplus application and the Agreement, before the employer obtains the written consent of these persons; and
- (d) obtained the number of executed Agreements (the "Written Agreements") required from affected members and others under the Regulation.

20. The Agreement must provide for:

- (a) the name and registration number of the pension plan;
- (b) the name of the individual;
- (c) the signature of the individual;
- (d) the date on which it is signed; and
- (e) the signature of the employer.

Where the Agreement is provided to a collective bargaining agent in respect of a group of individuals, the required name and signature are those of the bargaining agent. In addition, the document must include provision for a clear statement as to the individuals or group in respect

of whom the collective bargaining agent is executing the document.

Transmitting the Agreements

21. In order to obtain the Written Agreements required under clause 8(1)(b) of the Regulation, a copy of each of the Surplus Notice and the Agreement must be given to all persons listed in subsection 78(2) of the PBA. In accordance with subsection 112(1) of the PBA, transmittal must be by personal delivery or first class mail.

Written Agreements

22. To satisfy subclause 8(1)(b)(ii) of the Regulation, an applicant should obtain the Written Agreements of at least two-thirds of the members affected by the wind up, or, where some or all of the members are represented by any collective bargaining agent(s), the Written Agreement of the bargaining agent(s).
23. Normally, to satisfy subclause 8(1)(b)(iii) of the Regulation, an applicant should obtain the Written Agreements of at least two-thirds of the aggregate of those former members and other persons who are entitled to payments under the pension plan at the date of wind up. This requirement is subject to the Superintendent's discretion following a review of the circumstances of each surplus application.
24. If a pension plan is provided for both unionized and non-unionized members, in addition to the Written Agreement of

the relevant collective bargaining agent(s), Written Agreements must be obtained from at least two-thirds of those members not represented by the bargaining agent(s).

25. Legal counsel may sign the Agreement on behalf of the individuals they represent at the time the Agreement is signed, provided such representation arrangement satisfies the requirements of policy S900-503 ("Surplus Distribution - The Role of Legal Counsel in Obtaining Written Consent - Section 8 of Regulation 909").
26. The appropriate collective bargaining agent(s) for the purposes of subclause 8(1)(b)(ii) of the Regulation is the bargaining agent(s) who represents any members at the date the bargaining agent(s) signs the Agreement on behalf of those members.

No Written Agreement is required from any collective bargaining agent(s) who, at the date of the wind up, does not represent affected members nor from any bargaining agent(s) representing former members.

27. A collective bargaining agent may execute a Written Agreement only on behalf of those members who are represented by the bargaining agent. Therefore, if a pension plan involves more than one collective bargaining agent, a Written Agreement is required of each bargaining agent who represents any affected member.
28. The Written Agreement of a collective bargaining agent who represents any members of the pension plan must be obtained, even where the bargaining agent does not bargain the pension plan.

THE SURPLUS APPLICATION

29. The format and content of the surplus application should be consistent with Schedule I to this policy.
30. All material required by the PBA and Regulation must be attached to the surplus application, including:
 - (a) A list, by class, of the names of members, former members or other persons who are affected by the wind up.
 - (b) A certified copy of the Surplus Notice referred to in subsection 28(5) of the Regulation, pursuant to subsection 28(6) of the Regulation.
 - (c) A statement that the employer has complied with subsection 78(2) of the PBA.
 - (d) A list, by class, of the names of members, former members or any other persons who received the Surplus Notice, the date the last Surplus Notice was transmitted and the form of delivery of the Surplus Notice.
 - (e) Complete copies of all plan and trust documentation from inception, including all current and prior plan texts, trust agreements, insurance contracts, employed booklets, employee notices, collective bargaining agreements, information brochures and any other documents that may be relevant to surplus entitlement. The applicant should highlight the parts of the plan and trust documentation that the applicant believes

may be relevant to surplus entitlement. Full documents should be arranged in chronological order and clearly labelled.

- (f) Copies of the title page and the balance sheet (or any updated balance sheet) of the wind up report as of the effective date of the wind up giving rise to the surplus application and the actuary's certification from the wind up report or any supplemental wind up report.

A supplement to a wind up report will be required if the distribution of surplus was not addressed in the initial wind up report or the initial wind up report does not reflect the surplus distribution proposals outlined in the surplus application.

- (g) Information required to be submitted to FSCO staff in accordance with policy S900-801 ("Surplus Attributable to Employer and Employee Contributions on Plan Wind Up").

- (h) The approval by the Superintendent of the payment of basic benefits based on the wind up report and any supplementary report.

- (i) A copy of the most recent collective agreement(s) if some or all of the affected members are represented by any collective bargaining agent(s).

- (j) Any written representations objecting to the surplus application received by the applicant directly or

through the Superintendent, as well as any response(s) by the applicant.

(k) Disclosure as to whether or not the surplus application affects members, former members or other persons with employment in a jurisdiction other than Ontario. Where the surplus application affects members, former members or other persons with employment in a jurisdiction other than Ontario (the "non-Ontario members"), the applicant must provide:

- (i) a table indicating the number of members, former members or other persons affected by the surplus application in each jurisdiction, including Ontario; and
- (ii) certification in the form set out in Schedule II to this policy that the applicant has complied with the requirements for surplus distribution of those other jurisdictions with respect to the non-Ontario members.

The Superintendent reserves the right to review the certification and to require additional information or explanation of the contents of the certification before proceeding with the review of the surplus application.

(l) Any submissions which may be relevant to the surplus application.

Where other materials or information which may be relevant are discovered

after the surplus application has been filed, such materials or information must be filed as an addendum to the initial surplus application (see paragraph 32 of this policy).

(m) Where the surplus application is made pursuant to clause 8(1)(b) of the Regulation,

- (i) a copy of the Agreement;
- (ii) a list, by class, of the names of members, former members or other persons who received a copy of the Agreement, the last date the Agreement was transmitted and the form of delivery of the Agreement;
- (iii) copies of the Written Agreements documenting the consent of a member, former member or other person with respect to the Agreement;
- (iv) copies of the Written Agreement(s) between the employer and any collective bargaining agent(s) that pertain to the Agreement; and
- (v) a list of the members, former members or other persons who did not agree or did not respond to the Agreement.

(n) Where the surplus application is made pursuant to subsection 8(2) of the Regulation, the applicant should

refer to policy S900-600 ("Making Application Under ss. 7a(2)(c)"). If the applicant has already obtained a court order concerning entitlement to surplus and distribution of funds from surplus, a copy of the court order must be attached to the surplus application.

FILING THE SURPLUS APPLICATION

31. (a) The general procedure is outlined in policy S850-200 ("Filing Applications with the Superintendent of Financial Services").

(b) The surplus application, including attachments, should be submitted on 8-1/2" x 11" paper (subject to legibility).

32. The surplus application is filed with the Superintendent by sending four (4) copies to:

Superintendent of Financial Services
Financial Services Commission of Ontario
5160 Yonge Street, 17th Floor
Box 85
North York ON M2N 6L9

Four (4) copies of any information or materials which are supplemental to the initial filing and which are required in order to complete the surplus application should be filed with the Superintendent.

33. Upon receipt, the surplus application will be acknowledged.

34. The Superintendent will not complete his consideration of the surplus application until the Superintendent has

approved the payment of basic benefits on the basis of the wind up report.

35. The applicant must forward a copy of the surplus application to the plan administrator.

36. For surplus applications made pursuant to clause 8(1)(b) of the Regulation, a copy of the Agreement should be included in each of the four (4) copies submitted to the Superintendent. As well, two full sets of all of the Written Agreements obtained from members, former members, and other persons must be filed with the Superintendent. One set should include all of the signed original Written Agreements.

Review Process

37. (a) If staff believe that an application is incomplete, they will advise the applicant in writing. The applicant must submit four (4) copies of the documentation required to complete the application.

(b) The review of a surplus application will not proceed until the earlier of the date when:

(i) staff receive all of the information requested;

(ii) the applicant submits a written request asking that the surplus application proceed as is (i.e., without submitting the additional information that staff have requested); or

(iii) the time period for a response, as set out in the letter from staff, expires.

38. Staff will then review the surplus application and all other filed materials for compliance. If any compliance concerns are identified, staff will send a letter outlining their concerns to the applicant, the collective bargaining agent(s) of the members (if applicable), and any person who has made written representations under subsection 78(3) of the PBA.
39. Staff's letter will specify the time period in which the applicant, the collective bargaining agent(s) of the members (if applicable) or any person who has made written representations under subsection 78(3) of the PBA must provide a written response to the compliance concerns, if they wish to have the response considered in the Superintendent's decision-making.

Four (4) copies of the written response must be submitted to the Superintendent.

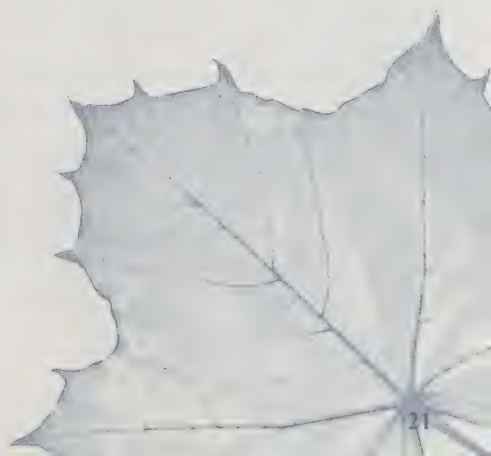
40. The Superintendent's proposed decision will be served on the applicant and on any person who has made written representations under subsection 78(3) of the PBA, by way of a notice of proposal with written reasons.
41. A person on whom the notice of proposal is served is entitled to a hearing before the Financial Services Tribunal under subsection 89(6) of the PBA if the person delivers to the Tribunal written notice requiring a hearing

within thirty (30) days after being served with the notice of proposal.

42. If no notice requiring a hearing is received within the specified time frame, the Superintendent may carry out the proposed decision.
43. Applicants should refer to policy S850-100 ("Delegation of the Superintendent's Authorities") for additional information on the decision-making process.

MEMBER STATEMENT

44. If there is surplus on the wind up of a plan, the administrator shall provide, within the prescribed period, statements to all persons affected by the wind up containing the prescribed information about surplus, as set out in section 28.1 of the Regulation. These statements are to be provided after the Superintendent has approved the wind up report, including the disposition of surplus. Applicants should ensure that the requirements of this section have been satisfied.



SCHEDULE I

FORMAT AND CONTENT OF THE APPLICATION TO THE SUPERINTENDENT FOR CONSENT TO THE REFUND OF SURPLUS TO AN EMPLOYER

- Date:** *Provide the date of the surplus application.*
- Employer:** *Provide the correct legal name of the employer, or receiver or trustee in bankruptcy as appropriate, making the surplus application.*
- Pension Plan:** *Provide the full registered name of the pension plan and the registration number.*
- Applicant:** *Provide the name, title and business address of the corporate officer authorized to act on the employer's behalf. (Unless otherwise indicated in the surplus application, all communication from the Superintendent and staff of FSCO will be directed to the agent or counsel who files the surplus application on the applicant's behalf.)*

Nature of the Surplus Application:

Provide a full description of the surplus application to the Superintendent with reference to the specific section(s) of the PBA and Regulation pursuant to which the surplus application is being made. For example:

Application for the Superintendent's consent pursuant to subsection 78(1) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended, and clause 8(1)(b) of Regulation 909, R.R.O. 1990, as amended, to a payment of surplus to (provide full legal name of the employer) in the amount of \$ (show the amount sought at the effective date of wind up) as at (show the effective date of wind up) plus investment earnings thereon to the date of payment (add reference if

employer is seeking any other adjustment in its request for the surplus refund).

This application includes a surplus distribution agreement whereby (x) per cent of the surplus as of the effective date of wind up will be distributed to the members, former members and other persons entitled to benefits as of the effective date of wind up.

Appropriate modifications will be required for surplus applications based on a court order pursuant to subsection 8(2) of the Regulation.

Actuary/Counsel/Agent:

Provide the name of any person acting as the agent or counsel for the employer making the surplus application, or acting on behalf of the members,

former members or other persons. If there are no such agent or counsel, please indicate "None".

Actuary for the Applicant (and name of firm):

Counsel for the Applicant (and name of firm):

Actuary for the Members/Former Members/Union/etc. (and name of firm):

Counsel for the Members/Former Members/Union/etc. (and name of firm):

Plan Administrator:

Provide the name and address of the person designated to act as plan administrator, if different from the corporate officer acting for the applicant employer.

Collective Bargaining Agent:

Provide the name of the Collective Bargaining Agent(s) who represent any members or former members affected by the wind up of the pension plan.

Background:

Provide a brief summary of the background of the plan leading up to the surplus application including:

- the effective date of the plan;
- the classes of members covered by the plan;
- the basic benefit structure (e.g., "non-contributory", "flat benefit plan");
- a brief chronology of the plan and prior versions thereof, including any pension plan

from which assets of the wound up pension plan can be traced (include references to asset transfers to or from the pension fund of another pension plan, plan conversions and partial wind ups that may have occurred prior to the date of wind up);

- the corporate history relevant to the plan and any predecessor plans, including the background to any changes in the name of the employer associated with the pension plan;
- the effective date and reasons for the wind up of the pension plan; and
- any other information which will assist in understanding the surplus application.

Subsection 78(2) of the PBA - Surplus Notice Requirements:

The applicant must satisfy the Superintendent that the persons listed in subsection 78(2) have received full and fair notice and that the requirements of the PBA and Regulation have been satisfied.

(a) Subsections 28(5) and 28(5.1) of the Regulation:

Provide information indicating how the applicant has complied with:

- subsection 28(5) and any related policies, procedures or administrative practices setting out the minimum content to be included in the Surplus Notice required under subsection 78(2) of the PBA. This minimum content does not alter the applicant's obligation to ensure that full and fair notice is given.
- subsection 28(5.1), which requires that a copy of the Surplus Notice be filed with the

Superintendent prior to transmittal to the members, former members and other persons.

(b) Subsection 28(6) of the Regulation:

Provide information demonstrating compliance with subsection 28(6) of the Regulation, which requires that the surplus application be accompanied by a certified copy of the Surplus Notice signed by the corporate officer authorized to act for the applicant, a statement signed by that corporate officer that subsection 78(2) of the PBA has been complied with, the date the last Surplus Notice was distributed and details as to the classes of persons who received the Surplus Notice. Include reference to the attachment or tab at which the certified copy of the Surplus Notice may be found.

Subsection 112(3) of the PBA - Alternate Service:

If, in lieu of individual notice, the Surplus Notice is transmitted by public advertisement, indicate the classes or groups who were served by the public advertisement, the dates and newspapers in which the advertisement ran and provide a copy of the advertisement.

If, in lieu of individual notice, the Surplus Notice is transmitted by an alternative form of notice other than public advertisement, indicate the classes or groups who were served by the alternative form of notice, the dates and method by which the alternative form of notice was served and provide a copy of the alternative form of notice.

Refer to the attachment or tab in the surplus application where a copy of the public

advertisement or alternative form of notice and the Superintendent's authorization for alternative service are found.

Subsection 79(3) of the PBA - Conditions Precedent to a Proposal to Consent

In the following sections, the applicant must satisfy the Superintendent that all the conditions in the PBA and Regulation have been met.

(a) Clause 79(3)(a) - The Plan has a Surplus:

The applicant must demonstrate that the plan has a surplus.

Provide the date of the letter from the Superintendent approving the distribution of the members' and former members' basic benefits. Refer to the attachment or tab at which extracts of the wind up report and supplemental report and a copy of the Superintendent's letter may be found. Include in the surplus application a brief summary of the balance sheet for the plan as at the effective date of wind up along with an updated balance sheet if there has been any significant change in the figures. For example:

Balance Sheet

	As at effective date of wind up	As of (current date)
Assets		
Market value of assets	\$ 0.00	\$ 0.00
Less: Provision for Expenses	<u>\$ 0.00</u>	<u>\$ 0.00</u>
Available assets	\$ 0.00	\$ 0.00
Liabilities		
Basic benefits	\$ 0.00	\$ 0.00
Benefit enhancements, if applicable	<u>\$ 0.00</u>	<u>\$ 0.00</u>
Liabilities for benefits	\$ 0.00	\$ 0.00
Surplus (Deficit)	\$ 0.00	\$ 0.00

Surplus distribution agreement as of (date):

To members, former members and other persons	\$ 0.00 (%)
To employer	\$ 0.00 (%)

(b) Clause 79(3)(b) of the PBA - The Plan Provides for the Payment of Surplus to the Employer on the Wind up of the Pension Plan:

The applicant employer must satisfy the Superintendent that the plan provides for the payment of surplus to the employer on wind up. Therefore, the surplus application must establish that the employer is legally entitled to the payment of surplus on wind up. The employer must provide a complete chronological history of the plan, and any predecessor or prior plans that may be relevant, and complete copies of all plan and trust documentation since inception,

including all current and prior plan texts, trust agreements, insurance contracts, employee booklets, employee notices, collective bargaining agreements, information brochures and any other documents that may be relevant to the Superintendent's determination of whether a plan provides for the payment of surplus to the employer on wind up. The employer must also provide a full analysis showing how it reaches the conclusion that it, and not the plan beneficiaries, is entitled to the surplus.

Where there are prior pension plans from which the current plan assets can be traced, or that may otherwise be relevant, the history must take into account the prior plan texts, trust agreements, insurance contracts, employee booklets, employee notices, collective bargaining agreements,

information brochures and any other documents that may be relevant to the Superintendent's determination of whether a plan provides for the payment of surplus to the employer on wind up.

Where any plan or trust documentation that may be relevant has been amended since its inception, the history must spell out the authority under the plan or trust to amend the provision or document. The history must also refer to all provisions or documents that do not support the surplus application. The applicant should highlight the portions of the documents that may be relevant to the Superintendent's decision on surplus entitlement, including those provisions that do not support the applicant's claim to surplus. Complete documents must be included as attachment(s) to the surplus application and must be clearly labelled.

All documents must be complete, arranged in chronological order and clearly labelled. All portions of the documents that may be relevant, whether or not they support the applicant's claim to surplus, must be highlighted.

As of January 1, 1998, if the pension plan did not provide for the distribution of surplus on wind up, the applicant must refer to subsection 79(4) of the PBA and its consequences for the surplus application.

(c) Clause 79(3)(c) of the PBA - Provision has been made for the Payment of All Liabilities of the Pension Plan:

Outline the status of the distribution of basic benefits and the proposals for the distribution of surplus to members, former members and

any other persons entitled to payments. If the Superintendent is not satisfied that adequate provision has been made for the payment of all liabilities of the pension plan, the Superintendent may propose to refuse the surplus application.

Clause 8(1)(b) of the Regulation - Written Agreement

Provide a summary, by jurisdiction, of the Surplus Notices issued and Written Agreements provided. For example:

	Total Number	Surplus Notices Issued	Written Agreements	(%)	Written Refusals
Employer	_____	_____	_____	_____	_____
Collective Bargaining Agent(s)	_____	_____	_____	_____	_____
Members (Not represented above)	_____	_____	_____	_____	_____
Former Members/ Other Persons (Not represented above)	_____	_____	_____	_____	_____

Subsection 8(2) of the Regulation - The Court Order

(a) Clause 8(2)(b) of the Regulation - Eligibility as a "Grandparented Plan":

Provide information supporting the applicant's position that the surplus application is eligible to proceed under subsection 8(2), the "grandparenting provision". For example:

The applicant makes application pursuant to clause 7a(2)(c) of O. Reg. 708/87 as that section read immediately before

December 18, 1991, as (enter the reason why the plan is a "grandparented plan", i.e., "the notice of proposal to wind up was filed prior to December 18, 1991" - enter the date the notice of proposal to wind up the plan was given to the Superintendent).

(b) Clause 8(2)(a) of the Regulation - The Status of the Application to Court:

Provide information concerning the status of the application to the court. Refer to the attachment which indicates the applicant's intention or where the copy of the order is located. For example:

The applicant has applied to the court for an order pursuant to clause 7a(2)(c) of O. Reg. 708/87 as that section read immediately before December 18, 1991, (enter "and has obtained" or "and is to obtain") an order for payment of the surplus assets to the applicant on wind up of the Plan.

Other Jurisdictions

The applicant must disclose whether or not the plan has members, former members or other persons with benefits resulting from employment in a jurisdiction other than Ontario. Applicants should refer to paragraph 30(k) under "The Surplus Application", part of this policy and complete the attached certification (Schedule II).

Representations

The employer must specify whether or not it received any objections or representations and attach to the surplus application copies of those objections or representations and any response(s) by the employer.

Attachments

Provide an index of all attachments to the surplus application. The attachments should be listed in the order that corresponds to the order of the subject matter under this Schedule and, where applicable, in chronological order. Where a surplus application is bound, the relevant tab numbers and their contents should also be included in the index.

Signature

The application must be signed by the applicant, or the authorized officer or agent of the applicant. The person signing the application should print their name below their signature and should indicate the capacity in which they have signed the application (i.e., applicant or agent or authorized signing officer of the applicant).

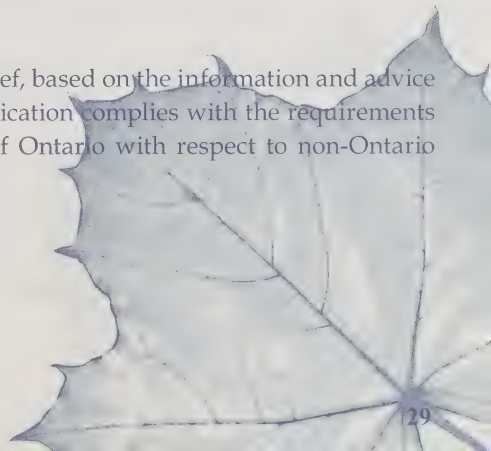
SCHEDULE II

CERTIFICATION OF COMPLIANCE WITH SURPLUS REQUIREMENTS OF OTHER JURISDICTIONS

- Date:** *Provide the date of the surplus application.*
- Employer:** *Provide the correct legal name of the employer, or receiver or trustee in bankruptcy as appropriate, making the surplus application.*
- Pension Plan:** *Provide the full registered name of the pension plan and the registration number.*
- Applicant:** *Provide the name, title and business address of the corporate officer authorized to act on the employer's behalf. (Unless otherwise indicated in the surplus application, all communication from the Superintendent and staff of FSCO will be directed to the agent or counsel who files the surplus application on the applicant's behalf.)*

I CERTIFY TO THE SUPERINTENDENT OF FINANCIAL SERVICES THAT:

- (a) I, the individual making this certification, am the applicant or the agent or authorized officer of the applicant;
- (b) The application affects members, former members or other persons with employment in a jurisdiction other than Ontario (the "non-Ontario members");
- (c) I am aware of, or have consulted with professionals who have advised me of, the requirements of the laws applicable to surplus distribution of the jurisdictions of the non-Ontario members, and I have reviewed the application in order to determine whether it complies with such laws;
- (d) I certify that, to the best of my knowledge and belief, based on the information and advice provided me, including that referred to herein, this application complies with the requirements for surplus distribution of those jurisdictions outside of Ontario with respect to non-Ontario members.



DATED this _____ day of _____, _____.
(day) (month) (year)

Signature of Applicant or Applicant's Agent or Authorized Signing Officer

Name of Applicant or Applicant's Agent or Authorized Signing Officer (Printed)

Address of Applicant or Applicant's Agent or Authorized Signing Officer (Printed)

It is an offence under the Criminal Code, R.S.C. 1985, c. C-46, as amended, for anyone to knowingly make a false document with the intent that it be acted on as genuine.





Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Surplus
INDEX NO.:	S900-511
TITLE:	Application by Employer for Payment of Surplus on Partial Wind Up of a Pension Plan - PBA ss. 78 and 79 - Regulation 909 s. 8
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (September 2004)
EFFECTIVE DATE:	September 30, 2004
REPLACES:	S900-509

This policy replaces S900-509 with respect to the distribution of surplus to an employer on the partial wind up of a pension plan. Policy S900-510 replaces S900-509 with respect to the distribution of surplus to an employer on the full wind up of a pension plan.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

This policy sets out the procedure for filing an application to distribute surplus to an employer ("surplus application") with the Superintendent of Financial Services ("Superintendent") on a partial plan wind up pursuant to section 78 of the PBA and section 8 of the Regulation. This policy and the application procedure set out here only apply where any of the surplus related to the wound up portion of the plan is distributed to the employer. While compliance with this policy is intended to facilitate the application process, the Superintendent has the ultimate authority to decide whether to consent to or reject an application, and the Superintendent is not bound by this policy.

Subsection 78(1) of the PBA provides that surplus may not be paid to an employer unless the Superintendent consents to the payment. The Superintendent shall not consent to a surplus application until specific requirements and conditions have been satisfied. Statements and documents supporting the applicant's assertion that the requirements and conditions have been satisfied should be included in the surplus application to the Superintendent. In reviewing a surplus application, it is the Superintendent's position that the employer must demonstrate entitlement to the surplus and must afford the same rights respecting surplus, as if the plan were fully wound up on the effective date of the partial wind up, to the affected members, former members and other persons who are entitled to receive payment from the pension plan as a result of the event which gave rise to the partial wind up.

General

The onus is on the applicant to satisfy the Superintendent that the surplus application meets the requirements of the PBA and the Regulation. The applicant should also demonstrate compliance with all relevant policies, procedures and administrative practices.

Policy S850-200 ("Filing Applications with the Superintendent of Financial Services") outlines the general procedure for filing those applications, including surplus applications, that were made to the Pension Commission of Ontario (the "PCO") in the first instance before the full proclamation of the PSCO Act.

It is the applicant's responsibility to decide whether plan-specific circumstances warrant the inclusion of additional information or documentation to support the surplus application. For example, additional information about members or former members or additional plan documentation may be relevant in the following circumstances:

- the source of all or a portion of the assets of the pension fund can be traced to the pension fund of another pension plan;
- all or a portion of the liabilities of a pension plan were converted to liabilities determined on another basis (a plan conversion);
- there was a partial wind up at any time prior to the date of the current partial wind up; or
- all or a portion of the liabilities of a pension plan relate to members, former members or other persons with employment in a jurisdiction other than Ontario.

If information necessary for the Superintendent to approve a surplus application is missing, the Superintendent will not be able to consent.

The content of this policy is set up under the following sections and headings:

DISTRIBUTION OF SURPLUS TO AN EMPLOYER ON PARTIAL WIND UP

General Principles

Notice of the Surplus Application

Written Agreement
The Surplus Application
Filing the Surplus Application
Member Statement

SCHEDULE I

Surplus Application Format
and Explanatory Notes

SCHEDULE II

Certification of Compliance with Surplus
Requirements of Other Jurisdictions
DISTRIBUTION OF SURPLUS TO AN
EMPLOYER ON PARTIAL WIND UP

GENERAL PRINCIPLES

1. Where an employer wants to receive a surplus distribution on partial plan wind up, section 78 of the PBA provides that the employer must apply to the Superintendent. No payment or distribution to the employer may be made without the Superintendent's prior consent. Before the Superintendent can propose to consent to a surplus application, the applicant must satisfy the requirements of subsection 78(2) of the PBA concerning notice and disclosure of all plan provisions relevant to surplus entitlement on partial wind up. In addition, the requirements of subsections 79(3) and (4) of the PBA must be satisfied, as well as all the requirements of the Regulation.
2. Where the partial wind up results from an event affecting the employment of

the members, such as a plant closure, all members participating in the plan on or after the date notice of the event is given who are affected by the event ("PWU members") must be included as members for purposes of the partial wind up, including the surplus distribution. This requirement applies even if a PWU member terminates or is terminated after the notice date but prior to the event actually occurring.

3. In order to expedite the payment of basic benefits, an employer would generally not file a surplus application in respect of a partial wind up until after the payment of basic benefits from the plan has been approved to the PWU members, former members and other persons who are entitled to receive payment from the pension plan as a result of the event which gave rise to the partial wind up (the "PWU group"). Payment of basic benefits may be through a transfer of the basic benefits as provided under subsection 73(2) of the PBA, or the purchase of annuities.

The distribution of surplus to the PWU group may be provided by benefit enhancements or in cash. The employer should complete the distribution of benefits and surplus to the PWU group and the distribution of surplus to the employer, where a surplus sharing agreement provides for such distribution, as expeditiously as possible. FSCO must be notified when all assets in the wound up portion of the plan have been distributed.

4. Compliance with the requirements of the FSCO Act, PBA, Regulation and conditions identified in any policy, procedure and administrative practice of the former PCO or of FSCO which affects the surplus application, is the responsibility of the applicant.
5. Applicants are responsible for ensuring that the information contained in the surplus application and any supporting documents is complete and accurate.

NOTICE OF THE SURPLUS APPLICATION

Content

6. The notice of the surplus application required by subsection 78(2) of the PBA (the "Surplus Notice") must include the information prescribed under subsection 28(5) of the Regulation.
7. With respect to clause 28(5)(c) of the Regulation (i.e., surplus attributable to employee and employer contributions), the methodology used to determine the surplus attributable to employee and employer contributions should be consistent with policy S900-801 ("Surplus Attributable to Employer and Employee Contributions on Plan Wind Up").
8. With respect to clause 28(5)(e) of the Regulation (i.e., the statement that written submissions may be made to the Superintendent within 30 days of receipt of the Surplus Notice), the Surplus Notice must state that written submissions are to be directed to the Superintendent. In addition, the Surplus Notice should state

- that the Superintendent will provide copies of all submissions to the employer.
9. With respect to clause 28(5)(f) of the Regulation (i.e., authority for surplus reversion), there must be full and complete disclosure of all provisions of the plan and trust documentation from inception that may be relevant in determining entitlement to the payment of surplus on partial wind up, including provisions in all current and prior plan texts, trust agreements, insurance contracts, employee booklets, employee notices, collective bargaining agreements, information brochures and any other documents that may be relevant.

The actual wording of all the provisions from the plan and trust documentation from inception that may be relevant to surplus entitlement and to the question of authority to make plan amendments must be cited in the Surplus Notice, along with a full analysis of their implications. The Surplus Notice must also include a complete historical analysis of all the plan, trust and other documentation that may be relevant to determine whether the plan constitutes a trust. If the plan at any time constituted a trust, the historical analysis must demonstrate that any amendment to the trust that has a bearing on surplus entitlement was valid.

Where the plan and trust documentation do not contain explicit provisions addressing surplus entitlement, this fact must also be disclosed in the Surplus Notice. As provided under

subsection 47(10) of the Regulation, as of January 1, 1998, if the pension plan did not provide for the distribution of surplus on wind up, the applicant must refer to subsection 79(4) of the PBA and its consequences for the surplus application.

If a surplus application requires a court order pursuant to subsection 8(2) of the Regulation, the applicant should refer to the procedure under policy S900-600 ("Making Application Under ss. 7a(2)(c)").

10. The Surplus Notice must state that the application and the analysis of the plan documents were prepared by the applicant, and that those in the PWU group may wish to obtain independent legal advice with respect to the application and the proposed surplus distribution agreement (the "Agreement") before they give any consent.
11. With respect to clause 28(5)(g) of the Regulation (i.e., notice concerning access to copies of the partial wind up report), if the office or location where the PWU members were employed is closed, the employer must make and communicate alternative arrangements for the PWU group to review the partial wind up report filed with the Superintendent in support of the surplus request, either at a location close to the location(s) where business was conducted or through the provision of copies of the partial wind up report directly to the PWU group.
12. If the Surplus Notice does not satisfy the requirements of the PBA and the Regulation, or the conditions identified in any policy, procedure or administrative

practice of the former PCO or FSCO, or if there has not been complete, full and fair disclosure of all information that may be relevant, the Superintendent may give the employer the opportunity to re-transmit a modified Surplus Notice. The employer has a very high obligation of good faith to ensure that full and fair disclosure is given.

13. Subsection 28(5.1) of the Regulation requires that the employer file a copy of the Surplus Notice with the Superintendent before it is transmitted.

The Surplus Notice should be filed with the Superintendent by sending one (1) copy to:

Superintendent of Financial Services
Financial Services Commission of Ontario
5160 Yonge Street, 17th Floor
Box 85
North York ON M2N 6L9

14. With respect to paragraph 8, paragraph 18(d) and paragraph 30(j) of this policy, a copy of any written representations filed with the Superintendent will be forwarded to the employer.

Transmitting the Notice of the Surplus Application

15. After the employer files its Surplus Notice with the Superintendent, the employer is required to transmit the Surplus Notice to all persons listed in subsection 78(2) of the PBA. The employer must satisfy

the Superintendent that full and fair notice has been given to those persons.

16. Transmittal must be by personal delivery or first class mail in accordance with subsection 112(1) of the PBA (see also paragraphs 17 and 18 of this policy).

Public Advertisement

17. The Superintendent may authorize delivery of the Surplus Notice by public advertisement or otherwise in accordance with subsection 112(3) of the PBA if the Superintendent is satisfied that it is not reasonable to give individual notice to all persons in accordance with paragraphs 15 and 16 of this policy.
18. Where an applicant requests the Superintendent's authorization to deliver the Surplus Notice by public advertisement, the information provided in the draft public advertisement submitted with the request to the Superintendent must clearly indicate the following:

(a) to whom the Surplus Notice is addressed (e.g., former members and other persons entitled to payments from the partially wound up plan or any applicable predecessor plan(s));

(b) the reason that these persons are being contacted (i.e., partial wind up of the pension plan in a surplus position and the surplus application);

(c) where the details of the surplus application will be made available; and

(d) information that persons to whom the Surplus Notice has been transmitted may make written representations to the Superintendent with respect to the surplus application within thirty (30) days after receiving the Surplus Notice and that the Superintendent will provide copies of all submissions to the employer.

WRITTEN AGREEMENT (SURPLUS APPLICATIONS PURSUANT TO CLAUSE 8(1)(b) OF THE REGULATION)

Content

19. When considering the surplus application, the Superintendent must be satisfied that the employer has:
- (a) provided the PWU group with full and fair disclosure in the copy of the Surplus Notice and the copy of the Agreement which have been provided to these persons;
- (b) provided the individuals in the PWU group who are not currently represented by independent legal counsel with a reasonable opportunity to obtain independent legal advice with respect to the Surplus Notice and the Agreement;
- (c) given the PWU group sufficient time to consider the surplus application and the Agreement, before the employer obtains the written consent of these persons; and
- (d) obtained the number of executed Agreements (the "Written Agreements")

required from PWU members and others under the Regulation.

20. The Agreement must provide for:

- (a) the name and registration number of the pension plan;
- (b) the name of the individual;
- (c) the signature of the individual;
- (d) the date on which it is signed; and
- (e) the signature of the employer.

Where the Agreement is provided to a collective bargaining agent in respect of a group of individuals, the required name and signature are those of the bargaining agent. In addition, the document must include provision for a clear statement as to the individuals or group in respect of whom the collective bargaining agent is executing the document.

Transmitting the Agreements

21. In order to obtain the Written Agreements required under clause 8(1)(b) of the Regulation, a copy of each of the Surplus Notice and the Agreement must be given by personal delivery or first class mail, in accordance with subsection 112(1) of the PBA, to the following persons as required by subsection 78(2) of the PBA:

- (a) the PWU group;

(b) each collective bargaining agent that represents any PWU member under the plan at the date of the partial wind up; and

- (c) the advisory committee established in respect of the pension fund.

Written Agreements

- 22. To satisfy subclause 8(1)(b)(ii) of the Regulation, an applicant should obtain the Written Agreements of at least two-thirds of the PWU members, or, where some or all of the PWU members are represented by any collective bargaining agent(s), the Written Agreement of the bargaining agent(s).
- 23. Normally, to satisfy subclause 8(1)(b)(iii) of the Regulation, an applicant should obtain the Written Agreements of at least two-thirds of the aggregate of those former members and other persons affected by the partial wind up and who are entitled to payments under the pension plan at the date of the partial wind up. This requirement is subject to the Superintendent's discretion following a review of the circumstances of each surplus application.
- 24. If a pension plan is provided for both unionized and non-unionized members, in addition to the Written Agreement of the relevant collective bargaining agent(s), Written Agreements must be obtained from at least two-thirds of those PWU members not represented by the bargaining agent(s).
- 25. Legal counsel may sign the Agreement on behalf of the individuals they represent

at the time the Agreement is signed, provided such representation arrangement satisfies the requirements of policy S900-503 ("Surplus Distribution - The Role of Legal Counsel in Obtaining Written Consent - Section 8 of Regulation 909").

26. The appropriate collective bargaining agent(s) for the purposes of subclause 8(1)(b)(ii) of the Regulation is the bargaining agent(s) who represents any PWU members at the date the bargaining agent(s) signs the Agreement on behalf of those members.

No Written Agreement is required from any collective bargaining agent(s) who, at the date of the partial wind up, does not represent PWU members nor from any bargaining agent(s) representing former members.

27. A collective bargaining agent may execute a Written Agreement only on behalf of those PWU members who are represented by the bargaining agent. Therefore, if a pension plan involves more than one collective bargaining agent, a Written Agreement is required of each bargaining agent who represents any PWU member.
28. The Written Agreement of a collective bargaining agent who represents any PWU member must be obtained, even where the bargaining agent does not bargain the pension plan.

THE SURPLUS APPLICATION

29. The format and content of the surplus application should be consistent with Schedule I to this policy.
30. All material required by the PBA and Regulation must be attached to the surplus application, including:
- (a) A list, by class, of the names of all individuals in the PWU group.
 - (b) A certified copy of the Surplus Notice referred to in subsection 28(5) of the Regulation, pursuant to subsection 28(6) of the Regulation.
 - (c) A statement that the employer has complied with subsection 78(2) of the PBA.
 - (d) A list, by class, of the names of members, former members or any other persons who received the Surplus Notice, the date the last Surplus Notice was transmitted and the form of delivery of the Surplus Notice.
 - (e) Complete copies of all plan and trust documentation from inception, including all current and prior plan texts, trust agreements, insurance contracts, employee booklets, employee notices, collective bargaining agreements, information brochures and any other documents that may be relevant to surplus entitlement. The applicant should highlight the parts of the plan and trust documentation that the applicant believes may be relevant to surplus entitlement.

Full documents should be arranged in chronological order and clearly labelled.

(f) Copies of the title page and the balance sheet (or any updated balance sheet) of the partial wind up report as of the effective date of the partial wind up giving rise to the surplus application and the actuary's certification from the partial wind up report or any supplemental report.

A supplement to a partial wind up report will be required if the distribution of surplus was not addressed in the initial partial wind up report or the initial partial wind up report does not reflect the surplus distribution proposals outlined in the surplus application.

(g) Information required to be submitted to FSCO staff in accordance with policy S900-801 ("Surplus Attributable to Employer and Employee Contributions on Plan Wind Up").

(h) The approval by the Superintendent of the payment of basic benefits based on the partial wind up report and any supplementary report.

(i) A copy of the most recent collective agreement(s) if some or all of the PWU members are represented by any collective bargaining agent(s).

(j) Any written representations objecting to the surplus application received by the applicant directly or

through the Superintendent, as well as any response(s) by the applicant.

(k) Disclosure as to whether or not the surplus application affects members, former members or other persons with employment in a jurisdiction other than Ontario. Where the surplus application affects members, former members or other persons with employment in a jurisdiction other than Ontario (the "non-Ontario members"), the applicant must provide:

(i) a table indicating the number of members, former members or other persons affected by the surplus application in each jurisdiction, including Ontario; and

(ii) certification in the form set out in Schedule II to this policy that the applicant has complied with the requirements for surplus distribution of those other jurisdictions with respect to the non-Ontario members.

The Superintendent reserves the right to review the certification and to require additional information or explanation of the contents of the certification before proceeding with the review of the surplus application.

(l) Any submissions which may be relevant to the surplus application.

Where other materials or information which may be relevant are discovered after the surplus application has been filed, such materials or information must be filed as an addendum to the initial surplus application (see paragraph 32 of this policy).

(m) Where the surplus application is made pursuant to clause 8(1)(b) of the Regulation,

- (i) a copy of the Agreement;
- (ii) a list, by class, of the names of members, former members or other persons who received a copy of the Agreement, the last date the Agreement was transmitted and the form of delivery of the Agreement;
- (iii) copies of the Written Agreements documenting the consent of individuals in the PWU group with respect to the Agreement;
- (iv) copies of the Written Agreement(s) between the employer and any collective bargaining agent(s) that pertain to the Agreement; and
- (v) a list of the individuals in the PWU group who did not agree or did not respond to the Agreement.

(n) Where the surplus application is made pursuant to subsection 8(2) of

the Regulation, the applicant should refer to policy S900-600 ("Making Application Under ss. 7a(2)(c)"). If the applicant has already obtained a court order concerning entitlement to surplus and distribution of funds from surplus, a copy of the court order must be attached to the surplus application.

FILING THE SURPLUS APPLICATION

31. (a) The general procedure is outlined in policy S850-200 ("Filing Applications with the Superintendent of Financial Services").

(b) The surplus application, including attachments, should be submitted on 8-1/2" x 11" paper (subject to legibility).

32. The surplus application is filed with the Superintendent by sending four (4) copies to:

Superintendent of Financial Services
Financial Services Commission of Ontario
5160 Yonge Street, 17th Floor
Box 85
North York ON M2N 6L9

Four (4) copies of any information or materials which are supplemental to the initial filing and which are required in order to complete the surplus application should be filed with the Superintendent.

33. Upon receipt, the surplus application will be acknowledged.

34. The Superintendent will not complete his consideration of the surplus application

until the Superintendent has approved the payment of basic benefits on the basis of the partial wind up report.

35. The applicant must forward a copy of the surplus application to the plan administrator.
36. For surplus applications made pursuant to clause 8(1)(b) of the Regulation, a copy of the Agreement should be included in each of the four (4) copies submitted to the Superintendent. As well, two full sets of all of the Written Agreements obtained from members, former members, and other persons must be filed with the Superintendent. One set should include all of the signed original Written Agreements.

Review Process

37. (a) If staff believe that an application is incomplete, they will advise the applicant in writing. The applicant must submit four (4) copies of the documentation required to complete the application.

(b) The review of a surplus application will not proceed until the earlier of the date when:

- (i) staff receive all of the information requested;
- (ii) the applicant submits a written request asking that the surplus application proceed as is (i.e., without submitting the additional information that staff have requested); or

(iii) the time period for a response, as set out in the letter from staff, expires.

38. Staff will then review the surplus application and all other filed materials for compliance. If any compliance concerns are identified, staff will send a letter outlining their concerns to the applicant, the collective bargaining agent(s) of the PWU members (if applicable), and any person who has made written representations under subsection 78(3) of the PBA.
39. Staff's letter will specify the time period in which the applicant, the collective bargaining agent(s) of the PWU members (if applicable) or any person who has made written representations under subsection 78(3) of the PBA must provide a written response to the compliance concerns, if they wish to have the response considered in the Superintendent's decision-making.

Four (4) copies of the written response must be submitted to the Superintendent.

40. The Superintendent's proposed decision will be served on the applicant and on any person who has made written representations under subsection 78(3) of the PBA by way of a notice of proposal with written reasons.
41. A person on whom the notice of proposal is served is entitled to a hearing before the Financial Services Tribunal under subsection 89(6) of the PBA if the person delivers to the Tribunal

written notice requiring a hearing within thirty (30) days after being served with the notice of proposal.

42. If no notice requiring a hearing is received within the specified time frame, the Superintendent may carry out the proposed decision.
43. Applicants should refer to policy S850-100 ("Delegation of the Superintendent's Authorities") for additional information on the decision-making process.

MEMBER STATEMENT

44. If there is surplus on the partial wind up of a plan, the administrator shall provide, within the prescribed period, statements to the PWU group containing the prescribed information about surplus, as set out in section 28.1 of the Regulation. These statements are to be provided after the Superintendent has approved the partial wind up report, including the disposition of surplus. Applicants should ensure that the requirements of this section have been satisfied.



SCHEDULE I

FORMAT AND CONTENT OF THE APPLICATION TO THE SUPERINTENDENT FOR CONSENT TO THE REFUND OF SURPLUS TO AN EMPLOYER

- Date:** *Provide the date of the surplus application.*
- Employer:** *Provide the correct legal name of the employer making the surplus application.*
- Pension Plan:** *Provide the full registered name of the pension plan and the registration number.*
- Applicant:** *Provide the name, title and business address of the corporate officer authorized to act on the employer's behalf. (Unless otherwise indicated in the surplus application, all communication from the Superintendent and staff of FSCO will be directed to the agent or counsel who files the surplus application on the applicant's behalf.)*

Nature of the Surplus Application:

Provide a full description of the surplus application to the Superintendent with reference to the specific section(s) of the PBA and Regulation pursuant to which the surplus application is being made. For example:

Application for the Superintendent's consent pursuant to subsection 78(1) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended, and clause 8(1)(b) of Regulation 909, R.R.O. 1990, as amended, to a payment of surplus to (provide full legal name of the employer) in the amount of \$ (show the amount sought at the effective date of the partial wind up) as at (show the effective date of partial wind up) plus investment earnings thereon to the date of payment (add reference

if employer is seeking any other adjustment in its request for the surplus refund).

This application includes a surplus distribution agreement whereby (x) per cent of the surplus as of the effective date of partial wind up will be distributed to the members, former members and other persons entitled to benefits as of the effective date of partial wind up.

Appropriate modifications will be required for surplus applications based on a court order pursuant to subsection 8(2) of the Regulation.

Actuary/Counsel/Agent:

Provide the name of any person acting as the agent or counsel for the employer making the surplus application, or acting on behalf of the persons

affected by the partial wind up. If there are no such agent or counsel, please indicate "None".

Actuary for the Applicant (and name of firm):

Counsel for the Applicant (and name of firm):

Actuary for the Members/Former Members/Union/etc. (and name of firm):

Counsel for the Members/Former Members/Union/etc. (and name of firm):

Plan Administrator:

Provide the name and address of the person designated to act as plan administrator, if different from the corporate officer acting for the applicant employer.

Collective Bargaining Agent:

Provide the name of the Collective Bargaining Agent(s) who represent any members or former members affected by the partial wind up of the pension plan.

Background:

Provide a brief summary of the background of the plan leading up to the surplus application including:

- the effective date of the plan;
- the classes of members covered by the plan;
- a clear description of those members, former members and other persons entitled to payments as a result of

the event that gives rise to the partial wind up (the "PWU group");

- the basic benefit structure (e.g., "non-contributory", "flat benefit plan");
- a brief chronology of the plan and prior versions thereof, including any pension plan from which assets of the pension plan can be traced (include references to asset transfers to or from the pension fund of another pension plan, plan conversions and partial wind ups that may have occurred prior to the date of the current partial wind up);
- the corporate history relevant to the plan and any predecessor plans, including the background to any changes in the name of the employer associated with the pension plan;
- the effective date and reasons for the partial wind up of the pension plan; and
- any other information which will assist in understanding the surplus application.

Subsection 78(2) of the PBA - Surplus Notice Requirements:

The applicant must satisfy the Superintendent that the persons listed in subsection 78(2) have received full and fair notice and that the requirements of the PBA and Regulation have been satisfied.

(a) Subsections 28(5) and 28(5.1) of the Regulation:

Provide information indicating how the applicant has complied with:

- subsection 28(5) and any related policies, procedures or administrative practices setting

out the minimum content to be included in the Surplus Notice required under subsection 78(2) of the PBA. This minimum content does not alter the applicant's obligation to ensure that full and fair notice is given.

- subsection 28(5.1), which requires that a copy of the Surplus Notice be filed with the Superintendent prior to transmittal to the members, former members and other persons.

(b) Subsection 28(6) of the Regulation:

Provide information demonstrating compliance with subsection 28(6) of the Regulation, which requires that the surplus application be accompanied by a certified copy of the Surplus Notice signed by the corporate officer authorized to act for the applicant, a statement signed by that corporate officer that subsection 78(2) of the PBA has been complied with, the date the last Surplus Notice was distributed and details as to the classes of persons who received the Surplus Notice. Include reference to the attachment or tab at which the certified copy of the Surplus Notice may be found.

Subsection 112(3) of the PBA - Alternate Service:

If, in lieu of individual notice, the Surplus Notice is transmitted by public advertisement, indicate the classes or groups who were served by the public advertisement, the dates and newspapers in which the advertisement ran and provide a copy of the advertisement.

If, in lieu of individual notice, the Surplus Notice is transmitted by an alternative form of notice other than public advertisement, indicate the classes

or groups who were served by the alternative form of notice, the dates and method by which the alternative form of notice was served and provide a copy of the alternative form of notice.

Refer to the attachment or tab in the surplus application where a copy of the public advertisement or alternative form of notice and the Superintendent's authorization for alternative service are found.

Subsection 79(3) of the PBA - Conditions Precedent to a Proposal to Consent

In the following sections, the applicant must satisfy the Superintendent that all the conditions in the PBA and Regulation have been met.

(a) Clause 79(3)(a) - The Plan has a Surplus:

The applicant must demonstrate that the plan has a surplus.

Provide the date of the letter from the Superintendent approving the distribution of the members' and former members' basic benefits. Refer to the attachment or tab at which extracts of the partial wind up report and supplemental report and a copy of the Superintendent's letter may be found. Include in the surplus application a brief summary of the balance sheet for the plan as at the effective date of partial wind up along with an updated balance sheet if there has been any significant change in the figures. For example:

Balance Sheet in respect of Members Affected by the Partial Wind Up

	As at effective date of partial wind up	As of (current date)
Assets		
Market value of assets	\$ 0.00	\$ 0.00
Less: Provision for Partial Wind Up Expenses	<u>\$ 0.00</u>	<u>\$ 0.00</u>
Available assets	\$ 0.00	\$ 0.00
Liabilities		
Basic benefits	\$ 0.00	\$ 0.00
Benefit enhancements, if applicable	<u>\$ 0.00</u>	<u>\$ 0.00</u>
Liabilities for benefits	\$ 0.00	\$ 0.00
Surplus (Deficit)	\$ 0.00	\$ 0.00

Surplus distribution agreement as of (date):

To PWU group	\$ 0.00 (%)
To employer	\$ 0.00 (%)

(b) Clause 79(3)(b) of the PBA - The Plan Provides for the Payment of Surplus to the Employer on the Wind up of the Pension Plan:

The applicant employer must satisfy the Superintendent that the plan provides for the payment of surplus to the employer on wind up. Therefore, the surplus application must establish that the employer is legally entitled to the payment of surplus on wind up. The employer must provide a complete chronological history of the plan, and any predecessor or prior plans that may be relevant, and complete copies of all plan and trust documentation since inception,

including all current and prior plan texts, trust agreements, insurance contracts, employee booklets, employee notices, collective bargaining agreements, information brochures and any other documents that may be relevant to the Superintendent's determination of whether a plan provides for the payment of surplus to the employer on wind up. The employer must also provide a full analysis showing how it reaches the conclusion that it, and not the plan beneficiaries, is entitled to the surplus.

Where there are prior pension plans from which the current plan assets can be traced, or that may otherwise be relevant, the history must take into account the prior plan texts, trust agreements, insurance contracts, employee booklets, employee

notices, collective bargaining agreements, information brochures and any other documents that may be relevant to the Superintendent's determination of whether a plan provides for the payment of surplus to the employer on wind up.

Where any plan or trust documentation that may be relevant has been amended since its inception, the history must spell out the authority under the plan or trust to amend the provision or document. The history must also refer to all provisions or documents that do not support the surplus application.

*The applicant should highlight the portions of the documents that may be relevant to the Superintendent's decision on surplus entitlement, including those provisions that do **not** support the applicant's claim to surplus. Complete documents must be included as attachment(s) to the surplus application and must be clearly labelled.*

All documents must be complete, arranged in chronological order and clearly labelled. All portions of the documents that may be relevant, whether or not they support the applicant's claim to surplus, must be highlighted.

As of January 1, 1998, if the pension plan did not provide for the distribution of surplus on wind up, the applicant must refer to subsection 79(4) of the PBA and its consequences for the surplus application.

(c) Clause 79(3)(c) of the PBA - Provision has been made for the Payment of All Partial Wind Up Liabilities of the Pension Plan:

Outline the status of the distributions of basic benefits and the proposals for the distribution of surplus to PWU members, former members and any other persons entitled to payments as a result of the partial wind up. If the Superintendent is not satisfied that adequate provision has been made for the payment of all liabilities of the wound up portion of the pension plan, the Superintendent may propose to refuse the surplus application.



Clause 8(1)(b) of the Regulation - Written Agreement

Provide a summary, by jurisdiction, of the Surplus Notices issued and Written Agreements provided. For example:

	Total Number Issued	Surplus Notices	Written Agreements	(%)	Written Refusals
Employer	_____	_____	_____	_____	_____
Collective Bargaining Agent(s)	_____	_____	_____	_____	_____
Members (Not represented above)	_____	_____	_____	_____	_____
Former Members/ Other Persons (Not represented above)	_____	_____	_____	_____	_____

Subsection 8(2) of the Regulation - The Court Order

(a) Clause 8(2)(b) of the Regulation - Eligibility as a "Grandparented Plan":

Provide information supporting the applicant's position that the surplus application is eligible to proceed under subsection 8(2), the "grandparenting provision". For example:

The applicant makes application pursuant to clause 7a(2)(c) of O. Reg. 708/87 as that section read immediately before December 18, 1991, as (enter the reason why the plan is a

"grandparented plan", i.e., "the notice of proposal to partially wind up was filed prior to December 18, 1991" - enter the date the notice of proposal to partially wind up the plan was given to the Superintendent).

(b) Clause 8(2)(a) of the Regulation - The Status of the Application to Court:

Provide information concerning the status of the application to the court. Refer to the attachment which indicates the applicant's intention or where the copy of the order is located. For example:

The applicant has applied to the court for an order pursuant to clause 7a(2)(c)

of O. Reg. 708/87 as that section read immediately before December 18, 1991, (enter "and has obtained" or "and is to obtain") an order for payment of the surplus assets to the applicant on partial wind up of the Plan.

Other Jurisdictions

The applicant must disclose whether or not the plan has members, former members or other persons affected by the partial wind up with benefits resulting from employment in a jurisdiction other than Ontario. Applicants should refer to paragraph 30(k) under "The Surplus Application" part of this policy and complete the attached certification (Schedule II).

Representations

The employer must specify whether or not it received any objections or representations and attach to the surplus application copies of those objections or representations and any response(s) by the employer.

Attachments

Provide an index of all attachments to the surplus application. The attachments should be listed in the order that corresponds to the order of the subject matter under this Schedule and, where applicable, in chronological order. Where a surplus application is bound, the relevant tab numbers and their contents should also be included in the index.

Signature

The application must be signed by the applicant, or the authorized officer or agent of the applicant.

The person signing the application should print their name below their signature and should indicate the capacity in which they have signed the application (i.e., applicant or agent or authorized signing officer of the applicant).



SCHEDULE II

CERTIFICATION OF COMPLIANCE WITH SURPLUS
REQUIREMENTS OF OTHER JURISDICTIONS

- Date:** *Provide the date of the surplus application.*
- Employer:** *Provide the correct legal name of the employer making the surplus application.*
- Pension Plan:** *Provide the full registered name of the pension plan and the registration number.*
- Applicant:** *Provide the name, title and business address of the corporate officer authorized to act on the employer's behalf. (Unless otherwise indicated in the surplus application, all communication from the Superintendent and staff of FSCO will be directed to the agent or counsel who files the surplus application on the applicant's behalf.)*

I CERTIFY TO THE SUPERINTENDENT OF FINANCIAL SERVICES THAT:

- (a) I, the individual making this certification, am the applicant or the agent or authorized officer of the applicant;
- (b) The application affects members, former members or other persons with employment in a jurisdiction other than Ontario (the "non-Ontario members");
- (c) I am aware of, or have consulted with professionals who have advised me of, the requirements of the laws applicable to surplus distribution of the jurisdictions of the non-Ontario members, and I have reviewed the application in order to determine whether it complies with such laws;
- (d) I certify that, to the best of my knowledge and belief, based on the information and advice provided me, including that referred to herein, this application complies with the requirements for surplus distribution of those jurisdictions outside of Ontario with respect to non-Ontario members.



DATED this _____ day of _____, _____.
(day) (month) (year)

Signature of Applicant or Applicant's Agent or Authorized Signing Officer

Name of Applicant or Applicant's Agent or Authorized Signing Officer (Printed)

Address of Applicant or Applicant's Agent or Authorized Signing Officer (Printed)

It is an offence under the Criminal Code, R.S.C. 1985, c. C-46, as amended, for anyone to knowingly make a false document with the intent that it be acted on as genuine.



Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION: Wind Up

INDEX NO.: W100-102

TITLE: Filing Requirements and Procedure
on Full or Partial Wind Up of a Pension Plan
- PBA ss. 52, 68, 70, 72-75, 77 and 81
- Regulation 909 ss. 15, 16, 28 and 29

APPROVED BY: Superintendent of Financial Services

PUBLISHED: FSCO Website (December 2004)

EFFECTIVE DATE: December 9, 2004

REPLACES: W100-101

This policy replaces W100-101 ("Filing Requirements and Procedure") as of the effective date of this policy.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

Pension Plan Wind Up - Filing Requirements and Procedure

This policy identifies the filing requirements and procedure to be followed on the full or partial wind up of a pension plan. The considerations involved and the procedure followed for the partial wind up of a defined benefit pension plan are substantially similar to those applied to a full plan wind up. Unless specifically noted otherwise, use of the term "wind up" refers to both the full and the partial wind up of a pension plan.

The material which follows deals with key wind up requirements and procedure. Readers are reminded that the provisions of each pension plan are unique and the circumstances that trigger the wind up of a pension plan are various. Therefore, it is not possible to identify all issues that may be relevant to every plan situation in this policy. It should further be noted

that the purpose of the administrative and actuarial guidelines set out in this policy is to assist administrators and their agents in the preparation of required wind up filings and FSCO staff in the review of the filings. These guidelines do not preclude the use of other bases if deemed appropriate in the circumstances. It is the responsibility of the administrators and/or their agents to demonstrate that the bases chosen are in compliance with the PBA and Regulation.

If administrators and their agents have questions about plan wind ups, they should refer to the relevant sections of the PBA and Regulation. Additional information may be obtained from other policies published by FSCO that deal with related wind up issues. Policies are intended to clarify how the PBA and Regulation are interpreted in certain situations and to assist administrators and their agents in understanding the requirements of the PBA, Regulation and FSCO's practices so that full compliance can be achieved.

Plans Excluded

This policy does not address multi-employer pension plans, defined benefit pension plans where the obligation of an employer to contribute is limited to a fixed amount set out in a collective agreement or situations involving a claim against the Pension Benefits Guarantee Fund ("PBGF"). Surplus matters are only briefly referenced in this policy, as other policies on this subject have been issued by FSCO.

While every attempt has been made to be thorough, it is not possible to anticipate and address all wind up situations. Administrators, therefore, are reminded that the application of the PBA and Regulation is subject to the facts of each case. Accordingly, the contents of this policy should not be construed as legal, actuarial or professional advice. Independent professional advice should be obtained if there is a particular interest in any of the matters addressed in this policy.

Table of Contents

Administrators and consultants for pension plans that provide only defined contribution benefits need only reference sections I and IV (4.1 through 4.3 inclusive) and subsection 3.1 of this policy. Unless otherwise specified, this policy applies to partial plan wind ups as well as to full plan wind ups.

SECTION I Wind Up Process

- 1.1 An Overview of the Process
- 1.2 Legislative Requirements and Current FSCO Practice

SECTION II Preparing the Wind Up Report

- 2.1 Compliance Items
- 2.2 Membership Data
- 2.3 Plan Provisions
- 2.4 Commuted Values of Benefit Entitlements
- 2.5 Financial Position of the Plan on Wind Up
- 2.6 Actuary's Statements of Opinion

SECTION III Treatment of Surplus/Deficit

- 3.1 Surplus
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SECTION IV Specific Issues Related to Wind Up

- 4.1 Payment Approved by the Superintendent
- 4.2 Prior Plans
- 4.3 Notice of Termination of Employment
- 4.4 Grow In Under Section 74 of the PBA
- 4.5 Treatment of Special Benefits
- 4.6 Allocation of Assets for Multi-jurisdictional Plans

APPENDIX A Specific Guidelines on Actuarial Assumptions and Methods for the Calculation of the Commuted Value of Individual Benefit Entitlements on Plan Wind Up

SECTION I Wind Up Process

For all pension plans, the wind up process consists of five stages. There is a sixth stage if a surplus remains after basic benefits have been distributed. For most stages, some specific action is required by either the administrator or the employer. Administrators should become familiar with this process in order to avoid delays which occur when a wind up report or other required filings do not comply with the PBA, Regulation and applicable FSCO policies.

1.1 An Overview of the Process

Stage 1 - The employer decides to wind up a pension plan or the Superintendent of Financial Services ("Superintendent") so orders.

The administrator is required to give notice of proposal to wind up the pension plan as identified under section 1.2 (Legislative Requirements and Current FSCO Practice) of this policy.

Stage 2 - The administrator files a wind up report and other wind up documentation.

The wind up report is a key document, which should include information about the funded status of the pension plan and the proposed methods of allocating and distributing assets.

FSCO staff review the submitted wind up documents. If the documentation is incomplete or deficient (e.g., documentation not certified or not signed), staff will write to the administrator or the administrator's agent to request the additional documents or information. Upon receipt and review of the additional documents or information, staff will make a recommendation to the Superintendent as to whether the wind up report complies with the requirements of the PBA and Regulation.

Stage 3 - The administrator issues benefit statements.

The administrator provides a statement setting out the benefits and options (including deemed election) available to each person entitled to a benefit or refund on the wind up of the plan. Depending on the situation, the administrator may decide to wait until after the Superintendent's approval of the wind up report to issue benefit statements (see also stage 4 described below).

Stage 4 - The Superintendent approves the wind up report or approves only the payment of basic benefits.

Where a wind up report complies with the requirements of the PBA and Regulation:

- if there is a surplus issue to be addressed, the Superintendent will approve only the payment of basic benefits until the disposition of the surplus has been determined. Once the disposition of surplus has been addressed in accordance with the PBA and Regulation, the Superintendent will approve the wind up report.
- if the pension plan has a funding deficit on a wind up date and the employer intends to fund the deficit in accordance with section 75 of the PBA, the Superintendent will approve the wind up report. However, the administrator is required to file annual reports as required by section 32 of the Regulation. In addition, until the Superintendent receives a report certifying that no further amounts are to be funded under section 75 of the PBA, the pension plan is prohibited under subsection 29(8) of the Regulation from using its assets to purchase single premium life annuities or paying out the commuted value of the pension benefits of any person affected by the wind up, except for the current value of any additional voluntary and/or required contributions made by the employee prior to the wind up date.

Where a wind up report does not comply with the requirements of the PBA and Regulation, the Superintendent will refuse to approve it.

Stage 5 - The administrator distributes benefits.

When the administrator receives the Superintendent's approval of the wind up report or approval of only the payment of basic benefits pursuant to subsection 70(3) of the PBA, the distribution of benefits can take place in accordance with the wind up report and the options elected, subject to any restrictions imposed by the Superintendent or prescribed by the PBA and Regulation.

Stage 6 - The administrator distributes surplus.

If a decision has been made to distribute all surplus available on wind up among plan members, former members or other eligible persons, the formula for distribution should be included in the wind up documentation.

If the employer intends to withdraw or share the surplus with the members, a surplus application is required to be made to the Superintendent. See policy S900-510 ("Application by Employer for Payment of Surplus on Full Wind Up of a Pension Plan") or policy S900-511 ("Application by Employer for Payment of Surplus on Partial Wind Up of a Pension Plan"), as appropriate, for information on the surplus application process.

1.1.1. Other Considerations

1) When a Notice of Proposal to Wind Up a Pension Plan Has Been Given

Subsection 70(2) of the PBA requires that once a notice of proposal to wind up a plan has been given, no payments or expenses can be paid out of the pension fund until the Superintendent has approved the wind up report. This restriction would not, however, interfere with the continuation of the payment of a pension or any other benefit if the payment began before the notice of proposal to wind up was issued. Also, the administrator or an agent of the administrator may request that the Superintendent authorize payment of other benefits or expenses pursuant to subsection 70(3) of the PBA prior to the approval of the wind up report.

2) Wind Up of Defined Benefit/Defined Contribution Hybrid Plans

On the wind up of a pension plan that provides benefits on both a defined benefit and defined contribution basis, the two parts are generally seen as separate. Once all contributions for the defined contribution part required up to the date of the wind up are received by the pension fund, the defined contribution part of the plan is fully funded. The defined benefit part would have a surplus or deficit, as the case may be, based on the assets and liabilities of the defined benefit part of the plan.

3) Split of Assets and Liabilities on Partial Wind Up

As at the effective date of a partial wind up, the liabilities and assets related to the members, former members and other persons affected by the partial wind up must be identified. The split of the pension plan assets between the wound up portion and the on-going portion of the plan must be determined as if the total pension plan were wound up on the partial wind up date. Section 2.5.2 of this policy describes how the asset split should be determined.

4) Approval of the Wind Up Report and Distribution of Assets

Once a wind up report is approved by the Superintendent, assets must be distributed in accordance with the wind up report, subject to the payment of any deficit in accordance with section 75 of the PBA. A pension plan wind up is not complete until all assets in the pension fund, or in the case of a partial wind up all assets related to the wound up portion of the pension fund, have been distributed in accordance with the wind up report approved by the Superintendent.

1.2 Legislative Requirements and Current FSCO Practice

1.2.1 Effective Date of Wind Up

Subsection 68(5) of the PBA provides that the effective date of wind up cannot be earlier than the date member contributions, if any, cease to be deducted, in the case of contributory pension plans, or in any other case, on the date the notice of wind up is given to members. Where a wind up results

from a specific event such as plant closure, bankruptcy or purchase and sale, the effective date may not be earlier than the date of the specific event precipitating the wind up unless the requirements of subsection 68(5) of the PBA have been met prior to that date.

The Superintendent may change the effective date of wind up by order, if in the Superintendent's view there are reasonable grounds for such a change (subsection 68(6) of the PBA). The effective date of wind up may not be obvious in some circumstances, such as where there are a series of terminations of employment related to a downsizing. In such situations, the administrator or agent is encouraged to submit a written proposal supporting the selection of both the effective date of wind up and the time period during which the termination of a member will result in the member being included in the wind up. FSCO staff will consider the proposal in light of legislative requirements.

1.2.2 Notice of Proposal to Wind Up a Pension Plan

An employer who intends to wind up a pension plan in whole or in part must give notice of proposal, as required under subsections 68(2) and (3) of the PBA, to each of the following:

- the Superintendent;
- all members who are affected by the proposed wind up;
- all former members who are affected by the proposed wind up;

- any trade union(s) representing such members;
- the advisory committee (if any); and
- any other person entitled to a payment from the pension fund who is affected by the proposed wind up.

The notice must contain the information prescribed in subsection 28(1) of the Regulation.

At a minimum, the administrator should provide FSCO staff with:

- a certified copy of the wind up notice;
- a statement outlining who (including any union, if applicable) received the notice; and
- the date the last notice was distributed.

In the event an employer declares bankruptcy, is placed in receivership or otherwise ceases operations, the administrator or the administrator's agent should notify FSCO staff immediately.

1.2.3 Persons Who Must be Included in the Wind Up

When a pension plan is being fully wound up, all members, former members and other persons entitled to payments from the plan on the effective date of wind up must be included in the wind up. In circumstances where a plan is partially wound up, only those members, former members and other persons affected by the partial plan wind up are included.

Where a wind up results from an event affecting the employment of the members, such as a plant closure, all members affected by the event who are participating in the plan on or after the date notice of the event is given must be included as members for the purposes of the wind up. This requirement applies even if a member terminates or is terminated after the notice date but prior to the event actually occurring.

If there has been a series of staggered layoffs prior to and/or after the wind up date, the administrator or the administrator's agent should submit a written proposal to identify which group of employees, including those who may have terminated prior to the wind up date and/or may terminate after the wind up date, will be entitled to be included in the wind up.

For more information relating to partial wind ups, please refer to policy W100-301 ("Notice of Proposal for Partial Wind Up").

1.2.4 Wind Up Documentation

In addition to the notice of proposal to wind up the plan, the following documentation must be filed.

Wind Up Report

Subsection 29(3) of the Regulation requires that, within six months following the effective date of the wind up, the administrator must file a wind up report pursuant to subsection 70(1) of the PBA. Pursuant to section 15 and subsection 29(1)

of the Regulation, the report must be prepared by an actuary (i.e., a Fellow of the Canadian Institute of Actuaries), except with respect to the following plan types:

- a plan that provides only defined contribution benefits;
- a fully insured pension plan established prior to January 1, 1987, underwritten by a contract with an insurance company and that does not require employee contributions; or
- a pension plan underwritten by a contract issued under the *Government Annuities Act* (Canada).

The report required for these plan types may also be prepared by an accountant or a person authorized by an insurance company, a trust corporation or the Annuities Branch of the Government of Canada, responsible for administering the pension plan or pension fund.

Specific items to be included in a wind up report are set out under subsection 70(1) of the PBA. Section II of this policy provides further detail to assist actuaries in preparing wind up reports on pension plans that provide defined benefits.

Amendments, Resolutions and Form 1.1

Appropriate plan amendments and resolutions, which affect the wind up, should be filed in conjunction with the wind up report. The proposals in the wind up report must conform with the provisions of the plan and amendments.

If an amendment is required (e.g., where there are benefit improvements in conjunction with the wind up), an application for the registration of a plan amendment using FSCO pension Form 1.1 should be included with the wind up documentation. Form 1.1 is available on the FSCO website at www.fSCO.gov.on.ca.

Superintendent's Checklist for Compliance on Plan Wind Up for Defined Benefit Plans

The administrator should file a completed Superintendent's Checklist for Compliance on Plan Wind Up for Defined Benefit Plans, which is available on the FSCO website at www.fSCO.gov.on.ca. This checklist is designed to assist administrators and their agents in compiling the required submissions. It also aids FSCO staff in their review of the wind up. Poorly completed checklists may result in delay of the wind up process.

Wind Up Report for Defined Contribution Pension Plans

The administrator of a defined contribution pension plan that is to be wound up may wish to complete and file the Wind Up Report for Defined Contribution Pension Plans. This standardized report is available on the FSCO website at www.fSCO.gov.on.ca. The report sets out the information required by FSCO staff and expedites the review of defined contribution plan wind ups.

Other Required Filings in Respect of a Full Wind Up

Pursuant to section 29.1 of the Regulation, the administrator must file the following documents within six months after the effective date of wind up for the period from the most recent plan year end to the effective date of wind up:

- an Annual Information Return ("AIR"), including the Pension Benefits Guarantee Fund Assessment Certificate
- financial statements for the pension plan or fund

The administrator is responsible for ensuring that all AIRs required up to the effective date of full wind up are filed and that all prescribed and outstanding fees and assessments are paid (subsection 29(4) of the Regulation).

1.2.5 Distribution of Benefits

The administrator is required, under section 72 of the PBA, to provide each person entitled to a benefit or refund from the plan on wind up with a statement setting out the person's benefits under the plan, the options available and other information as prescribed under subsection 28(2) of the Regulation. The statement should indicate, in accordance with clause 28(2)(t) of the Regulation, that the benefits and options are subject to the approval of the Superintendent and the Canada Revenue Agency, and may be subject to adjustment.

The statement containing the information prescribed under subsection 28(2) of the Regulation must be given to the specified persons within 60 days after the earlier of the administrator receiving notice that the Superintendent has approved the wind up report, or the payment of benefits under subsection 70(3) of the PBA.

A recipient of a statement issued in accordance with section 28 of the Regulation has 90 days after receipt of the statement to make an election and forward it to the administrator. If the recipient has an election to make and fails to do so within 90 days, that person shall be deemed to have elected to receive an immediate pension, if eligible. If the recipient is not eligible to receive an immediate pension, that person shall be deemed to have elected to receive a deferred pension commencing at the earliest date mentioned in clause 74(1)(b) of the PBA. Information pertaining to a deemed election should be specified in the statement in accordance with subsection 72(2) of the PBA and clause 28(2)(o) of the Regulation.

The administrator has 60 days to make payment in accordance with an election made (or deemed to have been made) by a person on wind up. The administrator must make payment within 60 days after the later of the day the administrator:

- receives the person's election (or if no election has been made, the day the person is deemed to have made the election), or
- receives notice that the wind up report has been approved by the Superintendent.

However, where the Superintendent approves the payment of benefits under subsection 70(3) of the PBA before approving the wind up report, the administrator must make payment in relation to an election resulting from such a statement within 60 days after the later of the day the administrator:

- receives the person's election (or if no election has been made, the day the person is deemed to have made the election), or
- receives notice of the Superintendent's approval to pay basic benefits under subsection 70(3) of the PBA.

If the plan has a deficit, payment of basic benefits described in statements given in accordance with section 28 of the Regulation are also subject to the requirements of subsections 29(7) and (8) of the Regulation and may be delayed due to these requirements.

1.2.6 Distribution of Surplus

Where there is surplus on the full or partial wind up of the plan, the administrator is also required to provide each person entitled to a benefit or refund from the plan on wind up with a statement setting out information and options respecting the distribution of the surplus as prescribed under subsection 28.1(2) of the Regulation. The statement must be given to the specified persons within 60 days after the administrator receives notice that the Superintendent has approved the wind up report.

A recipient of a statement issued in accordance with section 28.1 of the Regulation has 90 days after receipt of the statement to make an election (if the recipient has an election to make) and forward it to the administrator. If the recipient fails to make an election within 90 days, that person shall be deemed to have elected the method of distribution specified in the statement in accordance with subsection 28.1(4) of the Regulation.

The administrator must make payment within 60 days after the later of the day the administrator:

- receives the person's election (or if no election has been made, the day the person is deemed to have made the election), or
- receives notice that the wind up report has been approved by the Superintendent.

Depending on when the basic benefits are to be distributed relative to the distribution of surplus, it may be possible for the administrator to combine the statement requirements for the wind up and the surplus distribution in a single document.

1.2.7 Final Distribution of Assets and Confirmation of Distribution

Within 30 days after final distribution of the assets of the pension plan, or the assets of the wound up portion of the plan in the case of a partial wind up, the administrator must give the Superintendent written notice that all assets of the plan or the wound up portion

of the plan have been distributed, as required under subsection 29.1(4) of the Regulation.

SECTION II

Preparing the Wind Up Report

A wind up report filed under subsection 70(1) of the PBA must comply with the prescribed requirements of the PBA and Regulation. As well, in preparing a wind up report for a defined benefit plan, subsection 16(1) of the Regulation requires that an actuary "Y..shall use methods and actuarial assumptions that are consistent with accepted actuarial practice and with the requirements of the Act and this Regulation." As at the date of publication of this policy, applicable professional standards are set out in the document titled Consolidated Standards of Practice - Practice-Specific Standards for Pension Plans issued in May 2002 by the Canadian Institute of Actuaries (the "CIA Standards").

Under subsection 70(1) of the PBA, the wind up report must set out at least the following:

- the assets and liabilities of the pension plan;
- the benefits to be provided under the pension plan to members, former members and other persons;
- the methods of allocating and distributing the assets (including any surplus) of the pension plan and determining the priorities for payment of benefits; and
- such other information as is prescribed.

2.1 Compliance Items

Where an actuary is required to prepare a wind up report, the actuary should confirm compliance with respect to the following legislative requirements, where applicable:

- Minimum value of employee contributions with interest for pre-1987 benefits PBA ss. 39(1) & (2)
- Minimum 50% cost rule for post-1986 contributions PBA ss. 39(3) & (4)
- Early retirement options PBA s. 41
- Joint and 60% survivor option PBA s. 44
- Full vesting PBA s. 73(1)(b)
- Grow in rights PBA s. 74
- Notice period under *Employment Standards Act*, 2000 PBA s. 74(5)
- Deemed consent of ancillary benefits PBA s. 74(7)
- Benefits accrued under all prior plans included in the report PBA s. 81(2)
- Minimum credited interest from date of wind up to date of payment Regulation s. 24(12)
- Minimum commuted value of a pension, deferred pension or ancillary benefit Regulation s. 29(2)

2.2 Membership Data

Among the CIA Standards, the following requirements are included:

- The report should be detailed enough to enable another actuary to examine the reasonableness of the valuation."
- The data are the responsibility of the plan administrator. The actuary would,

however, report on the sufficiency and reliability of the data, including specifically the capitalized values included in the valuation whether or not the plan administrator was the calculator thereof."

- The finality of wind-up calls for the actuary to obtain precise data." [The balance of the paragraph goes on to address the situation where precise data on membership is not available.]
- The reported membership data would include details of the amount and terms of payment of each member's benefits."

The following information is required by FSCO staff in order to complete their review of a wind up report. Such information should be provided in an anonymous form (i.e., no names, social insurance numbers or other personal identifiers should be provided).

For members and deferred vested former members:

- age or date of birth
- sex
- years of continuous service, or date of hire (members only)
- years of credited service (pre-1987 and post-1986; members only)
- years of membership, or date of plan entry (members only)
- date of termination (if different than the effective date of wind up)
- accumulated (pre-1987 and post-1986) employee contributions with interest, if any
- salary upon which the benefits are based (members only), if applicable

- accrued (pre-1987 and post-1986) pension
- bridging benefit (pre-1987 and post-1986), if any
- any other benefits provided under the plan
- commuted values of accrued (pre-1987 and post-1986) pension, bridging (pre-1987 and post-1986) and other benefits
- excess contributions due to 50% cost rule
- additional voluntary contributions with interest, if any

For former members in receipt of pension payments and other beneficiaries:

- age or date of birth
- spousal age or spousal date of birth
- sex
- date of retirement
- amount of pension payable
- bridging benefit, if any
- any other benefits provided under the plan
- form of pension payment
- wind up liabilities or commuted values of pension, bridging and other benefits

The report should include a reconciliation of plan membership from the valuation date of the last filed actuarial report to the effective date of the wind up.

In the case of a partial wind up, a summary of the statistics pertaining to members who are remaining in the on-going portion of the plan should also be provided. However, if there have not been significant changes in membership since the valuation date of the last filed actuarial report, a reference to that report with respect to the remaining members is acceptable.

2.3 Plan Provisions

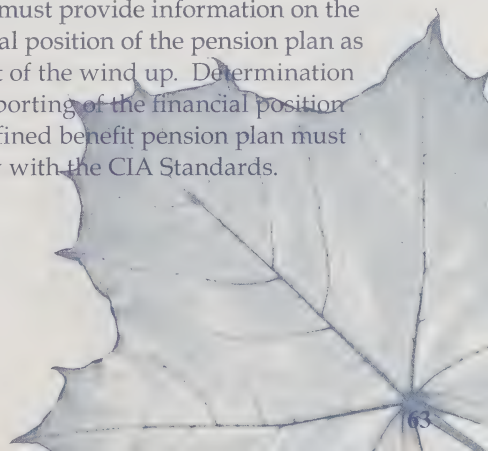
The report must include a summary of plan provisions that were reflected in the wind up valuation. The actuary should ensure that the summary is consistent with the plan documents filed with FSCO.

2.4 Commuted Values of Benefit Entitlements

Appendix A sets out the actuarial guidelines that are currently followed by FSCO staff in their review of the determination of the commuted values of members' benefit entitlements on wind up. These guidelines do not preclude the use of any other actuarial basis if deemed appropriate by the actuary. However, the actuary should justify the basis used and demonstrate that the commuted values calculated using such a basis would comply with the Act and Regulation.

2.5 Financial Position of the Plan on Wind Up

In addition to the determination of the commuted values of the benefit entitlements of the individual members, the wind up report must provide information on the financial position of the pension plan as a result of the wind up. Determination and reporting of the financial position of a defined benefit pension plan must comply with the CIA Standards.



2.5.1 Valuation Balance Sheet in Respect of a Full Wind Up

In the case of a full wind up, the wind up report should provide a valuation balance sheet including the assets and the wind up liability of the plan as of the effective date of wind up.

Assets

Assets should be valued at market, with adjustments for receivables or payables at the effective date of wind up. The actuary should describe in detail any estimates that were made of market values. In particular, if the actuary has reason to believe that there may be items which might adversely affect the quality of assets, the actuary should disclose this information and quantify the impact, to the extent possible. In making this determination, the actuary may rely on or use the opinion of another person if such reliance or use is justified in the circumstances. Cash out value should be used for insurance company guaranteed annuity contracts and general fund deposit administration contracts.

If expenses are expected to be paid from the fund and the payment of these expenses is permitted under the plan, a reasonable allowance for wind up expenses should be identified and deducted from the value of plan assets. In determining the wind up funded ratio of the plan, this net asset value is taken as the numerator in the funded ratio formula.

The report should include a reconciliation of plan assets from the valuation date of the last filed actuarial report.

Wind Up Liability

The wind up liability must reflect all benefits provided under the plan and the applicable legislation on wind up and should be separately summarized for each major category of membership. For members and former members who are expected to receive a commuted value, the wind up liability must be consistent with the individual commuted values of the benefit entitlements determined in accordance with subsection 29(2) of the Regulation. For members and former members who are receiving or are expected to receive a pension benefit, the wind up liability should reflect the estimated cost of purchasing the pension benefits. The assumptions should indicate the percentage or category of members/former members for whom benefits will be settled by annuity purchase.

2.5.2 Valuation Balance Sheet in Respect of a Partial Wind Up

The partial wind up report should provide a valuation balance sheet in respect of each of the wound up and on-going portions of the plan as of the effective date of wind up.

Where a plan covers only members with Ontario employment, FSCO staff will accept, as a matter of practice, the splitting of assets between the wound up portion and the on-going portion of the plan in proportion to the

wind up liabilities as of the effective date of wind up (the "standard method"). Splitting of assets on another method may also be accepted if the actuary can confirm that, in his or her opinion, such a split would not result in an asset allocation that is materially different than that under the standard method. If the actuary uses a method other than the standard method, comments supporting the appropriateness of the method used should be included in the report.

For the on-going portion of the plan, the actuary should confirm whether the funding requirements as set out in the last filed funding actuarial report would continue to apply or otherwise set out the new funding requirements in a separate actuarial cost certificate or funding actuarial report.

2.6 Actuary's Statements of Opinion

The actuary must provide statements of opinion in accordance with the CIA Standards.

SECTION III

Treatment of Surplus/Deficit

The term "wind up" is defined in the PBA to mean the termination of a pension plan and the distribution of the assets of the pension fund. Therefore, in addition to establishing the benefits to be provided to affected members and former members, the wind up report should identify any excess or shortfall of assets existing after satisfying the liabilities (i.e., the surplus or deficit).

3.1 Surplus

If the pension plan is in a surplus position on full wind up, or the wound up portion of the pension plan is in a surplus position on partial wind up, the administrator should indicate how the surplus assets will be dealt with. Distribution of the assets must conform with the proposals set out in the wind up report approved by the Superintendent. If the wind up report does not indicate how the surplus will be dealt with, a supplement to the wind up report dealing with the surplus assets will be required.

3.2 Deficit

If the wind up report reveals that the plan does not have sufficient assets to pay the liabilities on wind up, the employer must pay into the pension fund amounts required under section 75 of the PBA.

The amount of deficit to be funded pursuant to clause 75(1)(b) of the PBA is the amount by which the Ontario wind up liability, exclusive of the unfunded portion of non-plan-vested benefits, exceeds the value of plan assets allocated for payment of pension benefits accrued with respect to employment in Ontario. Pursuant to clause 29(9)(a) of the Regulation, where payments are being made in accordance with section 75 of the PBA, the employer is not liable to pay the unfunded portion (based on the wind up funded ratio) of non-plan-vested benefits.

Where the employer funds the deficit by a lump sum payment and the actuary files

a certification that the obligations under section 75 of the PBA have been fully funded, the benefits can be paid. As a minimum, the deficit must be funded in accordance with section 31 of the Regulation by annual special payments, payable annually in advance, over a maximum period of five years commencing at the effective date of wind up (for qualifying plans, by monthly special payments over one year).

The administrator is required under section 32 of the Regulation to file a report annually until the employer's obligation under section 75 of the PBA has been fulfilled. This annual report must be prepared by an actuary and must satisfy all standards normally applicable to a valuation report. In addition, the report should provide a gain and loss analysis since the last report filed and specify the special payments required to liquidate the remaining liability obligation under section 75 of the PBA. Where a report shows that no further amount is to be funded, subsection 32(4) of the Regulation provides that any surplus may revert to the employer, subject to the requirements of section 79 of the PBA.

Subsections 29(7) and (8) of the Regulation set out the restrictions on cash out, transfers and annuity purchases prior to the plan being fully funded. For more information, see policy W100-440 ("Restrictions on Payments in Deficit Situations").

SECTION IV

Specific Issues Related to Wind Up

In this Section, a few specific issues related to wind ups are discussed, along with current FSCO practice with respect to these issues.

4.1 Payments Approved by the Superintendent

Prior to FSCO's review of a wind up report, the Superintendent may approve, under subsection 70(3) of the PBA, various kinds of payments, including the payment of expenses, commencement of monthly pension payments to retirees under a defined benefit plan and purchase of immediate annuities for eligible retirees under a defined contribution plan. Death benefits will also generally be approved if FSCO staff are satisfied that the plan would be fully funded.

The administrator may obtain approval from the Superintendent for a payment of expenses out of the plan fund. However, the administrator must ensure that such payment would not contravene section 22 of the PBA. See also policy A200-801 ("Costs for Wind Up and Surplus Applications").

Approvals under subsection 70(3) of the PBA will also be given by the Superintendent for payment of all benefit entitlements once FSCO staff have reviewed the wind up report and are satisfied that all benefits have been provided for properly. However, an outstanding issue related to surplus may remain: either the administrator has not determined how

the surplus is to be dealt with or there is a pending surplus refund proposal that requires the Superintendent's consent.

Once the wind up report is approved, all payments must be made in accordance with it.

4.2 Prior Plans

Prior pension plans sponsored by the same employer are deemed to be benefits associated with the current plan whether or not the assets were consolidated as set out under subsection 81(3) of the PBA. To the extent these apply to members affected by the wind up, such prior plans must also be included for the purposes of the wind up.

4.3 Notice of Termination of Employment

Pursuant to subsections 74(5) and (6) of the PBA, membership in a non-contributory plan should include the period of notice of termination of employment required under the *Employment Standards Act*, 2000. The notice period is included for both benefit eligibility and benefit calculation purposes. For contributory plans the members must be given the option to make the required contributions in respect of the notice period in order to have the period included for benefit purposes.

4.4 Grow In Under Section 74 of the PBA

In accordance with subsection 74(1) of the PBA, a member whose age plus service or plan membership equals 55 or more at

the effective date of wind up (the "rule of 55") will be eligible to receive:

- (a) an immediate pension, if eligible under the plan;
- (b) a pension beginning at the earlier of the normal retirement date under the plan, or the date on which the member would be entitled to an unreduced pension under the plan had the plan not been wound up and had the member's membership continued to that date;
- (c) a reduced pension in the amount payable under the plan beginning on the date on which the member would be entitled to the reduced pension under the plan as if the pension plan were not wound up and the member's membership had continued to that date.

The benefit entitlements for the "rule of 55" members must reflect this grow in provision.

Furthermore, pursuant to subsection 74(3) of the PBA, if a "rule of 55" member has at least 10 years of continuous service or membership at the date of wind up, the bridging benefits to which the member would have been entitled if the plan were not wound up and if the member's membership continued, subject to proration under subsection 74(4) of the PBA, must be reflected in the member's benefit entitlements.

4.5 Treatment of Special Benefits

Certain special benefits require specific treatment on wind up. In addition, grow in to these benefits should be provided in accordance with section 74 of the PBA, where applicable. The treatment of these special benefits is outlined below:

- Consent benefits must be provided on a plan wind up as required under subsection 74(7) of the PBA.
- Escalated adjustments or indexation (including adjustments that have not been made) are not considered to be ancillary benefits. They are part of the pension benefit under the plan, and thus must be included in the wind up benefits.
- Early retirement window benefits should be included to the extent that a member would have become eligible for the benefits prior to the close of the window, had the plan not been wound up and the member's membership continued.
- Plant closure benefits and permanent layoff benefits should be included for wind up purposes where the wind up is in conjunction with or accompanied by one of these events.
- Prospective benefit increases are not required to be included on plan wind up.

4.6 Allocation of Assets for Multi-jurisdictional Plans

In the case of a wind up covering members in more than one jurisdiction in which there are insufficient assets to cover all liabilities, the method for allocating

assets among the various jurisdictions is prescribed in section 30 of the Regulation. The assets allocated to another jurisdiction should be dealt with in accordance with the requirements of that jurisdiction.

APPENDIX A: Specific Guidelines on Actuarial Assumptions and Methods for the Calculation of the Commuted Value of Individual Benefit Entitlements on Plan Wind Up

In their review of the commuted value calculations, FSCO staff use the following actuarial guidelines developed from the Recommendations for the Computation of Transfer Values from Registered Pension Plans issued by the Canadian Institute of Actuaries effective September 1, 1993 (the "CIA Recommendations") that are currently prescribed in subsection 29(2) of the Regulation. These guidelines will remain in effect until subsection 29(2) of the Regulation is amended to refer to any other basis.

A.1.1 Interest

For non-indexed pensions and fully indexed pensions, the assumed interest rates should not be higher than the respective rates determined in accordance with the CIA Recommendations.

Partially indexed pensions should be valued using the method prescribed in the CIA Recommendations.

A.1.2 Mortality

The mortality assumption should not be weaker than the 1983 Group Annuity Mortality Table (GAM83) (including a level 10 per cent margin) as published on pages 880 and 881 of Volume XXXV of the Transactions of the Society of Actuaries.

Pre-retirement Death Benefits

If the only pre-retirement death benefit is the commuted value of the member's pension, it is appropriate to assume no mortality before retirement. Otherwise, a full description of how the pre-retirement death benefit, if any, is valued should be provided.

Unisex Table

In compliance with section 52 of the PBA, a unisex mortality table must be used to determine the commuted values of post-1986 benefits. The report should state clearly the mix of the male and female rates, and indicate the basis from which the mix is derived (for example, relative to the number of members or liabilities).

As a matter of practice, FSCO staff will also accept the use of unisex rates for pre-1987 benefits.

A.1.3 Retirement Age

The report should explicitly state the retirement age assumption for each category of membership. FSCO staff will not accept

statements which simply state that there has been compliance with section 74 of the PBA.

Reference should be made to section 4.4 of this policy (Grow In Under Section 74 of the PBA). For the purpose of section 74 of the PBA, members meeting the "rule of 55" should be assumed to retire at the most favourable retirement age (i.e., the retirement age that produces the highest commuted value).

To be consistent with the CIA Recommendations, if a plan provides that a deferred vested former member has the right to elect an earlier commencement date with a subsidized early retirement pension (i.e., a pension that exceeds the amount which is of actuarial equivalent value to the pension payable at normal retirement age), then the assumed retirement age should reflect the full value of the subsidy for all members and deferred vested former members, and not just the "rule of 55" members.

A.1.4 Marital Status

The marital status assumptions should be determined in accordance with subsection 3(A) (Demographic Assumptions) of the CIA Recommendations.

A.1.5 Date of Computation

Individual commuted values of benefit entitlements normally should be calculated as of the effective date of wind up using a basis in effect on that date. If warranted by the wind up circumstances, other computation date(s) may be used.

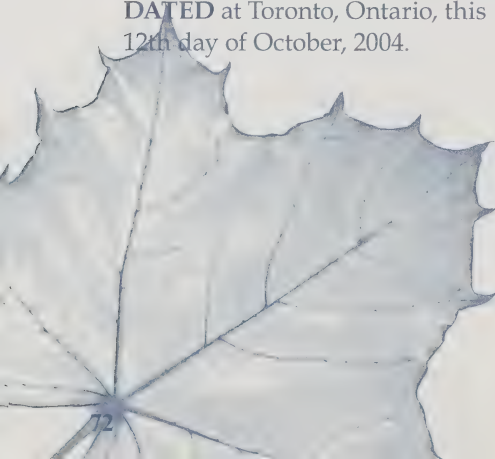


SUPERINTENDENT OF FINANCIAL SERVICES

Administrator Appointments - Section 71 of the *Pension Benefits Act*

1. Morneau Sobeco as the Administrator of the Salaried Employees Retirement Income Plan of The Imperial Home Decor Group (Canada) Inc. (Registration No. 1050426), effective immediately.
DATED at Toronto, Ontario, this 8th day of July, 2004.
2. Morneau Sobeco as the Administrator of the Retirement Plan for Hourly Employees of The Imperial Home Decor Group (Canada) Inc. (Registration No. 596254), effective immediately.
DATED at Toronto, Ontario, this 8th day of July, 2004.
3. Morneau Sobeco as the Administrator of the Pension Fund of The Imperial Home Decor Group (Canada) Inc. (Registration No. 1050434), effective immediately.
DATED at Toronto, Ontario, this 8th day of July, 2004.
4. Morneau Sobeco as the Administrator of Pension Plan for Servifood Ltd (Registration No. 684225), effective immediately.
DATED at Toronto, Ontario, this 8th day of July, 2004.
5. Morneau Sobeco as the Administrator of the Pension Plan for Bargaining Unit Employees of Slater Steel Inc. Hamilton Specialty Bar Division (Registration No. 308320), effective immediately.
DATED at Toronto, Ontario, this 8th day of September, 2004.
6. Morneau Sobeco as the Administrator of the Slater Steel Inc. Pension Plan for Corporate and Salaried Employees of the Hamilton Bar Specialty Division (Registration No. 308338), effective immediately.
DATED at Toronto, Ontario, this 8th day of September, 2004.
7. Morneau Sobeco as the Administrator of the Slater Steel Inc. Pension Plan for Salaried Employees of SLACAN Division (Registration No. 489310), effective immediately.
DATED at Toronto, Ontario, this 8th day of September, 2004.
8. Morneau Sobeco as the Administrator of the Pension Plan for Slater Stainless Corp. Members of the United Steelworkers of America (local 7777) (Registration No. 561464), effective immediately.
DATED at Toronto, Ontario, this 8th day of September, 2004.
9. Morneau Sobeco as the Administrator of the Pension Plan for Slater Stainless Corp. Members of National Automobile, Aerospace, Transportation and General Workers' (Registration No. 561456), effective immediately.
DATED at Toronto, Ontario, this 8th day of September, 2004.

10. PricewaterhouseCoopers as the Administrator of the Oxford Automotive Canada Ltd. Hourly Pension Plan- Wallaceburg (Registration No. 364356), effective immediately.
DATED at Toronto, Ontario, this 12th day of October, 2004.
11. PricewaterhouseCoopers as the Administrator of the Oxford Automotive Canada Ltd. Hourly Pension Plan- Chatham (Registration No. 386474), effective immediately.
DATED at Toronto, Ontario, this 12th day of October, 2004.
12. PricewaterhouseCoopers as the Administrator of the Oxford Automotive Canada Ltd. Retirement Income Plan for Union - Cambridge (Registration No. 996926), effective immediately.
DATED at Toronto, Ontario, this 12th day of October, 2004.
13. PricewaterhouseCoopers as the Administrator of the Oxford Automotive Canada Ltd. Salaried Pension Plan- Chatham and Wallaceburg (Registration No. 1063023), effective immediately.
DATED at Toronto, Ontario, this 12th day of October, 2004.





Notices of Proposal to Make an Order

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(4) of the Act, consenting to a payment out of the **Retirement Plan for Employees of Metso Automation Canada Ltd., Registration Number 543835;**

TO: **Metso Automation
Canada Limited**
32 Hymus Boulevard
Pointe-Claire QC H9R 1C9

Attention: Carrol Lamarche
Controller

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER

under s. 78(4) of the Act, consenting to the payment out of the Retirement Plan for Employees of Metso Automation Canada Ltd., Registration Number 543835 (the "Plan"), to Metso Automation Canada Limited in the amount of \$467,175 as at May 31, 2003, plus interest, at the fund rate of return thereon, to the date of payment.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Metso Automation Canada Limited is the Employer as defined in the Plan (the "Employer").

2. An amendment providing for conversion of the defined benefits to defined contribution benefits and supporting actuarial report were filed indicating that the Plan had a surplus of \$862,000 as at January 1, 2001. As at May 2003, the adjusted surplus is approximately \$485,000.
3. Sections 3.1 and 4.5 of the Plan provisions state that the surplus assets resulting from the conversion may be applied towards the Employer's contribution under the defined contribution provisions.
4. Employer contributions were paid to the Plan in 2002 and 2003 pending FSCO's registration of the amendment providing for the conversion of the Plan benefits.
5. FSCO registered the amendment January 16, 2003.
6. Evidence of the overpayment to the pension fund has been submitted to the Financial Services Commission of Ontario.
7. There were no member submissions made about the repayment to the Employer.
8. The application appears to comply with section 78(4) of the Act.
9. Such further and other reasons as come to my attention.

In accordance with subsection 105.(1) of the Act, an extension of the time limit under subsection 78(4) has been given.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act if, within thirty (30) days after this Notice of Proposal is served on you,

you deliver to the Tribunal a written notice that you require a hearing.¹

**YOUR WRITTEN NOTICE REQUIRING
A HEARING** must be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York ON M2N 6L9

Attn: The Registrar

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU,
A WRITTEN NOTICE THAT YOU
REQUIRE A HEARING, I MAY MAKE
THE ORDER PROPOSED HEREIN.**

DATED at Toronto, Ontario, this
11th day of August, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE C PURSUANT to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal
of the Superintendent of Financial
Services to Make an Order under section
69 of the Act, respecting the **Pension
Plan for Salaried Employees of Cold
Metal Products Limited, Registration
Number 0969188 (the "Pension Plan")**;

TO: Sun Life Assurance Company
227 King Street South
PO Box 1601 STN Waterloo
Waterloo ON
N2J 4C5

Attention: Audrey Humphrey
Finals Associate
**Administrator
of the Pension Plan**

AND TO: Cold Metals Products Limited
P.O. Box 66 LCD 1
65 Imperial Street
Hamilton ON L8L 7V2

Attention: Soheil Monzavi
General Manager
Employer

AND TO: Richter & Partners Inc.
200 King Street West
Suite 1900, P.O. Box 48
Toronto ON M5H 3T4

Attention: Peter Paul Farkas
**Trustee in Bankruptcy
for Cold Metal Products**

**NOTICE OF PROPOSAL TO
MAKE AN ORDER**

I PROPOSE TO MAKE AN ORDER that
the Pension Plan for Salaried Employees
of Cold Metal Products Limited,
Registration Number 0969188, be wound
up in full effective March 15, 2003.

I propose to make this order pursuant
to subsection 69(1) of the Act.

**I PROPOSE TO MAKE THIS ORDER
FOR THE FOLLOWING REASONS:**

1. There was a cessation or suspension
of Employer contributions
to the pension fund.
2. The Employer is bankrupt within
the meaning of the *Bankruptcy
and Insolvency Act* (Canada).
3. All or a significant portion of the
business carried on by the Employer
at a specific location is discontinued.
4. Such further reasons as may
come to my attention.

YOU ARE ENTITLED TO A HEARING
by the Financial Services Tribunal (the
"Tribunal") pursuant to section 89(6) of
the Act, if, within thirty (30) days after
the Notice of Proposal is served on you,
you deliver to the Tribunal a written
notice that you require a hearing.¹

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at: 416-226-7752, toll-free at: 1-800-668-0128, ext. 7752, or by fax at: 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 27th day of August, 2004.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
Make an Order under section 69 of the Act
relating to the **Employees' Retirement Plan
of Hoskins Alloys of Canada Limited,**
Registration Number 557868 (the "Plan");

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway
Suite 1100
Mississauga ON L4Z 3M3

Attention: Mr. Tony Karkheck
Human Resource Services
**Appointed
Administrator**

AND TO: **Hoskins Manufacturing Co.**
39500 High Pointe
Boulevard, Suite 300
Novi MI 48375

Attention: Phillip Varvatos
Controller
Employer

NOTICE OF PROPOSAL

**I PROPOSE TO MAKE AN
ORDER** in respect of the Plan
under section 69(1) of the Act.

PROPOSED ORDER:

That the Plan be wound up in
whole effective April 30, 2001.

1 NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

REASONS:

1. Cessation or suspension of Employer contributions to the pension fund, pursuant to clause 69(1)(a) of the Act.
2. Failure of the Employer to make contributions to the pension fund as required by the Act or the regulations, pursuant to clause 69(1)(b) of the Act.
3. A significant number of members have ceased to be employed by the Employer as the result of the discontinuance or reorganization of all or part of business of the Employer, pursuant to clause 69(1)(d) of the Act.
4. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING
by the Financial Services Tribunal (the
"Tribunal") pursuant to s. 89(6) of the Act.
To request a hearing, you must deliver to the
Tribunal a written notice that you require
a hearing, within thirty (30) days after this
Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE
must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

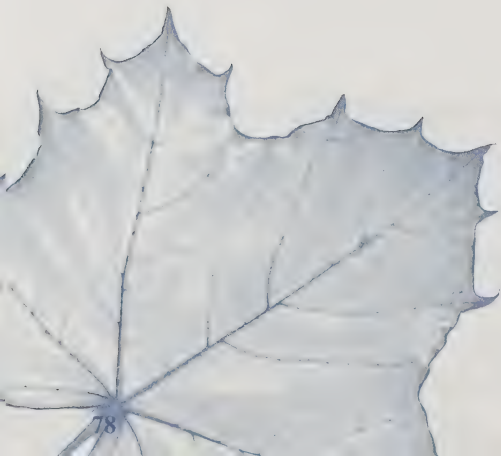
FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at:

416-226-7752, toll-free at: 1-800-668-0128,
ext. 7752, or by fax at: 416-226-7750.

**IF YOU FAIL TO REQUEST A
HEARING WITHIN THIRTY (30)
DAYS, I MAY MAKE THE ORDER
PROPOSED IN THIS NOTICE.**

DATED at North York, Ontario, this 27th
day of August, 2004.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
Make an Order under section 69 of the Act,
respecting the **Pension Plan for Salaried
Employees of Canadian Tack and Nail
Ltd., Registration Number 0581306;**

TO: **Morneau Sobeco**
895 Don Mills Road
Suite 700
One Morneau
Sobeco Centre
Toronto ON
M3C 1W3

Attention: David Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Canadian Tack and Nail Ltd.**
431 Dundas Street
P.O. Box 754
Cambridge ON N1R 5W6

Attention: Gary Ayers
Vice President & General
Manager
Employer

AND TO: **KPMG Inc.**
20 Erb Street West
Marsland Centre, 3rd Floor
Waterloo ON MN2L 1T2

Attention: Robert J. Bradley
Senior Manager
**Trustee in Bankruptcy
for Canadian
Tack and Nail Ltd.**

**NOTICE OF PROPOSAL TO
MAKE AN ORDER**

I PROPOSE TO MAKE AN ORDER that
the Pension Plan for Salaried Employees of
Canadian Tack and Nail Ltd., Registration
Number 0581306 (the "Pension Plan"), be
wound up in full for those members who
ceased to be employed effective between
March 20, 2003 and April 1, 2003.

I propose to make this order pursuant
to subsection 69(1) of the Act.

**I PROPOSE TO MAKE THIS ORDER
FOR THE FOLLOWING REASONS:**

1. there was a cessation or suspension
of Employer contributions to
the pension fund;
2. the Employer failed to make
contributions to the pension fund as
required by the Act or regulations.
3. the Employer is bankrupt within
the meaning of the *Bankruptcy
and Insolvency Act (Canada)*;
4. a significant number of members
of the Pension Plan ceased to be
employed by the Employer as a result
of the discontinuance of all or part
of the business of the Employer or
as a result of the reorganization of
the business of the Employer;



5. all or a significant portion of the business carried on by the Employer at a specific location was discontinued;
6. such further reasons as may come to my attention.

DATED at Toronto, Ontario, this 3rd day of September, 2004.

K. David Gordon
Deputy Superintendent, Pensions

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at: 416-226-7752, toll-free at: 1-800-668-0128, ext. 7752, or by fax at: 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal
of the Superintendent of Financial
Services (the "Superintendent") to Make
an Order under section 69 of the Act,
respecting the **Pension Plan for Hourly
Employees of Canadian Tack and Nail
Ltd., Registration Number 0241968;**

TO: **Morneau Sobeco**
895 Don Mills Road
Suite 700
One Morneau
Sobeco Centre
Toronto ON
M3C 1W3

Attention: David Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Canadian Tack and Nail Ltd.**
431 Dundas Street
P.O. Box 754
Cambridge ON N1R 5W6

Attention: Gary Ayers
Vice President & General
Manager
Employer

AND TO: **KPMG Inc.**
20 Erb Street West
Marshall Centre, 3rd Floor
Waterloo ON N2L 1T2

Attention: Robert J. Bradley
Senior Manager
**Trustee in Bankruptcy
for Canadian
Tack and Nail Ltd.**

**NOTICE OF PROPOSAL TO
MAKE AN ORDER**

I PROPOSE TO MAKE AN ORDER that
the Pension Plan for Hourly Employees of
Canadian Tack and Nail Ltd., Registration
Number 0241968 (the "Pension Plan"), be
wound up in full for those members who
ceased to be employed effective between
March 20, 2003 and April 1, 2003.

I propose to make this order pursuant
to subsection 69(1) of the Act.

**I PROPOSE TO MAKE THIS ORDER
FOR THE FOLLOWING REASONS:**

1. the Employer is bankrupt within
the meaning of the *Bankruptcy and
Insolvency Act* (Canada);
2. a significant number of members
of the Pension Plan ceased to be
employed by the Employer as a result
of the discontinuance of all or part
of the business of the Employer or
as a result of the reorganization of
the business of the Employer;
3. all or a significant portion of the
business carried on by the Employer at
a specific location was discontinued;
4. such further reasons as may
come to my attention.

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at: 416- 226-7752, toll-free at: 1-800-668-0128, ext. 7752, or by fax at: 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 15th day of September, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

Notices of Proposal to Make a Declaration

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28, respecting the **Retirement Plan for the Employees of Alloy Wheels International (Canada) Ltd., Registration Number 1036029 (the "Pension Plan")**;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David R. Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Alloy Wheels
International (Canada) Ltd.**
49 Truman Road
Box 13000
Barrie ON L4M 6E7

Attention: Joan Oickle
Compensation
and Benefits Coordinator
Employer

AND TO: **Deloitte & Touche Inc.**
BCE Place
Suite 1400
181 Bay Street
Toronto ON M5J 2V1

Attention: David Murray
Partner
**Trustee in Bankruptcy for
Alloy Wheels
International (Canada) Ltd.**

AND TO: **CAW Canada - Local 1991**
178 Dunlap Street
Barrie ON L4M 4S6

Attention: Ed Little
**President, Skill Trades Rep.
Union**

NOTICE OF PROPOSAL TO MAKE A DECLARATION

WHEREAS:

1. The Retirement Plan for the Employees of Alloy Wheels International (Canada) Ltd., (the "Pension Plan") Registration Number 1036029, is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of
3. the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and

4. The Pension Plan was wound up effective January 19, 2001; and
5. The Superintendent of Pensions initially appointed Arthur Andersen Inc. as the Administrator (the "Administrator") of the Pension Plan on February 2, 2001 and on July 10, 2002, appointed Morneau Sobeco as Administrator to replace Deloitte & Touche; and

NOW THEREFORE TAKE NOTICE I propose to consider to make a declaration pursuant to section 83 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The revised Actuarial Valuation Report filed by the Administrator indicates an estimated funding deficiency of \$2,097,300 as at January 19, 2001 and an estimated claim against the Guarantee Fund as at January 19, 2001 of \$1,258,296.
2. Deloitte & Touche Inc. was appointed Trustee in Bankruptcy of Alloy Wheels International (Canada) Ltd. on January 19, 2001.
3. Apart from a proof of claim of in the amount \$16,920 from the Trustee in Bankruptcy, there are no other funds available from the bankrupt estate of Alloy Wheels International (Canada) Ltd. to make payments to the Pension Plan.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario,
this 14th day of July, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28, respecting the **Pension Plan for Hourly Employees of Fantom Technologies Inc., Registration Number 0348995 (the "Pension Plan")**;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David R. Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Fantom Technologies Inc.**
PO Box 1004
Welland ON L3B 5S1

Attention: Norm Wotherspoon
Treasurer
Employer

AND TO: **PricewaterhouseCoopers Inc.**
145 King Street West
Toronto ON M5H 1V8

Attention: Catherine Hristow
Vice President
**Interim Receiver and Trustee
in Bankruptcy for
Fantom Technologies Inc.**

AND TO: **The United Steelworkers
of America Local 6444, District 6**
234 Eglinton Avenue East
Toronto ON M4P 1K5

Attention: Robert Heally
and Brian Greenaway
Union

**NOTICE OF PROPOSAL TO
MAKE A DECLARATION**

WHEREAS:

1. Pension Plan for Hourly Employees of Fantom Technologies Inc., (the "Pension Plan") Registration Number 0348995 is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of
3. the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
4. The Pension Plan was wound up in full for those members who ceased to be employed effective between November 20, 2000 and October 5, 2001; and
5. The Superintendent of Pensions initially appointed Deloitte & Touche Inc. as the Administrator (the "Administrator")

of the Pension Plan on April 25, 2002 and on July 11, 2002, appointed Morneau Sobeco as Administrator to replace Deloitte & Touche; and

NOW THEREFORE TAKE NOTICE I

propose to consider to make a declaration pursuant to section 83 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most recent actuarial valuation performed as at December 31, 1999, had a solvency deficiency of \$952,000 and a transfer ratio of 80%. Further, the Administrator had its actuary performed a preliminary valuation as at March 22, 2002, and the results of that review determined that the wind up funded ratio had deteriorated from 80% as at December 31, 1999 to approximately 59% as at March 22, 2002, and that the wind up deficit had increased to \$2,727,000 from \$952,000.
2. On October 25, 2001, Fantom Technologies Inc.'s request to obtain creditor protection for a temporary period under the *Companies' Creditors Arrangement Act* ("CCAA") was approved by an Order of the Ontario Superior Court of Justice. The Court appointed PricewaterhouseCoopers Inc. as the Monitor, as required under the CCAA proceedings and also appointed PricewaterhouseCoopers Inc. as Interim Receiver of the Fantom Technologies Inc.

On March 22, 2002, the Court issued an Order terminating the CCAA proceedings and discharged PricewaterhouseCoopers Inc. as Monitor but directed it to continue

in its role as Interim Receiver. On the same day, PricewaterhouseCoopers Inc. was appointed Trustee in Bankruptcy.

3. The Administrator has filed a proof of claim in respect of the estimated \$2,727,000, deficit with the Trustee in Bankruptcy. The Administrator advises that the Trustee in Bankruptcy has not completed their administration of the bankruptcy but have advised them that it is unlikely there will be any proceeds from the bankrupt estate of Fantom Technologies Inc. to make payments to the Pension Plan.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

YOU ARE ENTITLED TO A

HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

¹ PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario,
this 16th day of August, 2004.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal
of the Superintendent of Financial
Services to Make a Declaration under
section 83 of the Act, relating to the **Forest
City International Trucks Ltd. Non-
Contributory Retirement Plan (for Non-
Managerial Employees of U.A.W., Local 27)**
Registration Number 405506 (the "Plan");

TO: **Ernst & Young Inc.**
222 Bay Street
P. O. Box 251
Toronto-Dominion Centre
Toronto ON M5K 1J7

Attention: Philip Kan
Manager
Administrator

AND TO: **Forest City
International Trucks Ltd.**
3003 Page Street
London ON N5V 4J1

Attention: John Parliament
Controller
Employer

AND TO: **C.A.W. Canada, Local 27**
310 Wellington Road South
London ON N6C 4P4

Attention: John Parliament
Controller
Union Representative

**NOTICE OF PROPOSAL TO
MAKE A DECLARATION**

WHEREAS:

1. The Forest City International Trucks Ltd. Non-Contributory Retirement Plan (for Non-Managerial Employees of U.A.W., Local 27) is registered under the Act as Registration Number 405506 (the "Plan"); and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. Peat Marwick Thorne was appointed Receiver of the Employer on May 23, 1991 and on or soon thereafter appointed trustee in bankruptcy for the Employer; and
4. On October 6, 1993, the said receiver and trustee in bankruptcy was discharged; and
5. On February 5, 1992 the Superintendent of Pensions appointed Ernst & Young Inc. Administrator of the Plan; and
6. On March 5, 1997, the Superintendent of Pensions issued an order that the plan be wound up effective May 25, 1991; and
7. On December 2, 1999, the Superintendent of Financial Services approved a wind up report filed by the Administrator for the Plan; and
8. On September 21, 2001, the Administrator filed an application for a declaration that the Guarantee Fund applies to the Plan, and for an allocation of funds in the amount of \$136,800 from

the Guarantee Fund determined as of October 31, 2001; and

9. On November 26, 2001, the Administrator filed a supplement to the wind up report disclosing a revised claim against the Guarantee Fund as of October 31, 2001 of \$148,300; and
10. Additional liabilities are to be included in the allocation amount requested from the Guarantee Fund in respect of benefits under the Plan for which the employer's consent is deemed to have been given in accordance with subsection 74(7) of the Act;

NOW THEREFORE TAKE NOTICE I PROPOSE TO CONSIDER MAKING A DECLARATION in respect of the Plan under section 83 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

REASONS FOR THE PROPOSED DECLARATION:

1. The Employer, Forest City International Trucks Ltd., was adjudged bankrupt on May 23, 1991 or soon thereafter.
2. The Administrator has estimated the deficit in the plan as of as at October 31, 2001 to be \$151,200 and the claim against the Guarantee Fund to be \$148,300.
3. The trustee in bankruptcy has been discharged.
4. The Administrator is of the view that there are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be met.
5. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

Any notice requiring a hearing shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

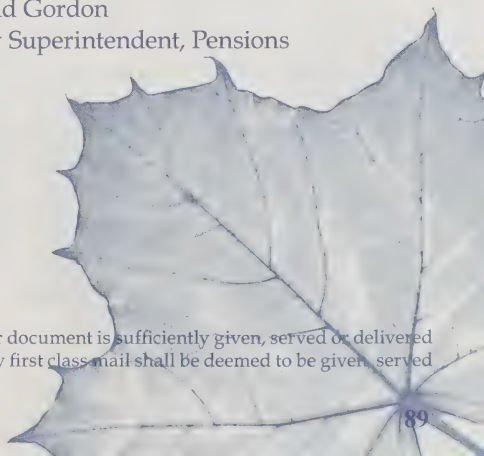
Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario
this 16th day of August, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE B PURSUANT to section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28, respecting the **Pension Plan for Employees of General Publishing Co. Limited, Registration Number 0563148 (the "Pension Plan")**;

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON
M3C 1W3

Attention: David Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: General
Publishing Co. Limited
895 Don Mills Road
400-2 Park Centre
Toronto ON M3C 1W3

Attention: Mary Halney
Manager Human
Resources
Employer

AND TO: Deloitte & Touche Inc.
79 Wellington Street West
Maritime Life Tower
Toronto Dominion
Centre, P.O. Box 29
Toronto ON M5K 1B9

Attention: Paul Denton
Director, Financial
Advisory Services
**Trustee in Bankruptcy
for General
Publishing Co. Limited**

AND TO: Graphic
Communications
International
Union Local 500M
324 Prince Edward Drive
Suite 10
Toronto ON M8Y 3Z5

Attention: John Bickford
Office Manager
Union

**NOTICE OF PROPOSAL TO
MAKE A DECLARATION**

WHEREAS:

1. The Pension Plan for Employees of General Publishing Co. Limited, Registration Number 0563148 (the "Pension Plan"), is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and



2. The Pension Plan provides defined benefits that are not exempt from the application of
3. the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
4. The Pension Plan was wound up in full for those members who ceased to be employed effective between April 30, 2002 and August 19, 2002; and
5. The Superintendent of Financial Services Commission appointed Morneau Sobeco as the Administrator (the "Administrator") of the Pension Plan on September 5, 2002.

NOW THEREFORE TAKE NOTICE I propose to consider making a declaration pursuant to section 83 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most recent Actuarial Valuation Report for this Pension Plan was produced by the plan actuary as of June 30, 2001. The Pension Plan was reported to have a 96.4% transfer ratio at that date and a solvency deficiency of \$75,000.

Following its appointment, the Administrator requested the actuary prepare a preliminary estimate of the wind up liabilities of the Pension Plan as of August 19, 2002. The actuary estimated the wind up funded ratio as 72.6% and a solvency deficiency of \$723,800.

2. Deloitte & Touche Inc. was appointed Trustee in Bankruptcy on August 20, 2002.

3. The Administrator has filed a proof of claim with the Trustee in Bankruptcy in respect of the deficiencies in the Pension Plan but has not received a response from the Trustee in Bankruptcy.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

¹ PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

DATED at Toronto, Ontario this
16th day of August, 2004.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Make a Declaration under section 83
of the Act relating to the **Pension Plan
for Employees of Mimik Industries
Inc., Registration Number 287490;**

TO: **Mimik Industries Inc.**
131 Sheldon Drive, Units 12 - 13
Cambridge ON N1R 6S2

Attention: Mr. Robert N. Fraser
Employer

AND TO: **Cowan Wright Limited**
100 Regina Street South,
Suite 270
P.O. Box 96
Waterloo ON N2J 3Z8

Attention: Mr. Timothy Lawrence, F.S.A.,
F.C.I.A.
Principal
Administrator

**NOTICE OF PROPOSAL TO
MAKE A DECLARATION**

WHEREAS:

1. The Pension Plan for Employees of Mimik Industries Inc. (the "Plan"), is registered under the Act as Registration Number 287490; and
2. The Plan provides defined benefits that are not exempt from the application of

- the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Plan was wound up by the employer effective September 13, 1996 with insufficient assets to pay out the wind up benefit entitlements of the Plan members and former members; and
4. The wind up proposals filed by the Employer were approved by the Superintendent of Financial Services on March 3, 1999, noting the intention of the Employer to fund the deficit in accordance with section 75 of the Act, and restricting the distribution of wind up benefits pending filing of a report under section 32 of the regulations to the Act showing no further part of the deficit to be funded; and
5. The Employer failed to comply with the funding requirements of section 75 of the Act; and did not comply with a court probation order issued in 1997 establishing a schedule of payments to be followed by the Employer for liquidating outstanding Employer contributions; and
6. The Employer failed to comply with a subsequent agreement made with the Financial Services Commission of Ontario on or about May 2000 to follow a modified schedule of payments to be made into the Plan to liquidate the balance of the outstanding employer contributions; and
7. A charge against the Employer was brought by Financial Services Commission of Ontario under section 75 of the Act for failing to make payment to the Plan in the manner prescribed under the Act; and



8. Sometime on or soon after March 22, 2004, the Employer ceased operations and closed its doors; and
9. The Employer's assets have been sold off to pay creditors; and
10. Pursuant to the charges brought by Financial Services Commission of Ontario, in a joint submission at trial on May 11, 2004 which was accepted by the Ontario Court of Justice, the Employer entered a guilty plea to the charges and was fined \$3,420. The court at the same time issued an order under ss.110(4) of the Act requiring the Employer to pay the \$342,000 then estimated as being owed to the Plan; and
11. The Financial Services Commission of Ontario will arrange to have the above restitution order converted to a judgement of the Superior Court of Justice as soon as possible. The Superintendent will then have the option of attempting to recover from the Employer the value of any payments made from the Guarantee Fund, although it is not expected that the firm will have any unsecured assets available; and
12. The Superintendent of Financial Services has a lien and charge on the assets of the Employer in accordance with section 86 of the Act in respect of any payment made out of the Guarantee Fund to the Plan; and
13. For purposes of section 33 of the regulations to the Act, the proposed declaration will require that the wind up funded ratio and the liability for benefits guaranteed by the Guarantee Fund be calculated as of September 13, 2000;

NOW THEREFORE TAKE NOTICE I PROPOSE TO CONSIDER MAKING A DECLARATION in respect of the Plan under section 83 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

REASONS FOR THE PROPOSED DECLARATION:

1. There are currently insufficient assets in the Plan to provide for the benefit entitlements of the members on wind up. An actuarial evaluation of the Plan as at September 13, 2000 identified a deficit of \$100,954 in the Plan against which the Employer has made no further payment, and a funded ratio for the Plan of 86.3%.
2. The deficit in the Plan as at May 1, 2004 has been estimated by the administrator to be \$378,997 and the claim against the Guarantee Fund is estimated to be \$359,056.
3. There currently exist reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied, and
4. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

¹NOTE: PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario,
this 24th day of August, 2004.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
Make a Declaration under section 83 of the
Act relating to the **Employees' Retirement
Plan of Hoskins Alloys of Canada Limited,**
Registration Number 557868 (the "Plan");

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway
Suite 1100
Mississauga ON L4Z 3M3

Attention: Mr. Tony Karkheck
Human Resource Services
**Appointed
Administrator**

AND TO: **Hoskins Manufacturing Co.**
39500 High Pointe
Boulevard, Suite 300
Novi MI 48375

Attention: Phillip Varvatos
Controller
Employer

**NOTICE OF PROPOSAL TO
MAKE A DECLARATION**

WHEREAS:

1. Employees' Retirement Plan of Hoskins Alloys of Canada Limited is registered under the Act as Registration Number 557868 (the "Plan"); and

2. The Plan provides defined benefits that are not exempt from the application of the
3. Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
4. The Superintendent of Financial Services appointed PricewaterhouseCoopers Inc. Administrator of the Plan on May 7, 2004; and
5. On May 17, 2004, the Administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan; and
6. The Administrator has indicated that the Employer had failed to remit required contributions to the Plan of \$117,880; and
7. The Administrator has indicated that the wind up funded ratio of the Plan is expected to be significantly lower than 80%; and
8. The Administrator is of the opinion that there are reasonable and probable grounds to conclude that the funding requirements of the Act cannot be met;

**NOW THEREFORE TAKE NOTICE I
PROPOSE TO CONSIDER MAKING A
DECLARATION** in respect of the Plan under
section 83 of the Act that the Guarantee Fund
applies to the Plan for the following reasons:

**REASONS FOR THE PROPOSED
DECLARATION:**

1. The Employer, Hoskins Alloys of Canada Limited, no longer exists.
2. The former Administrator of the Plan, Hoskins Manufacturing Co., the parent company of the Employer, cannot be located.

3. The Administrator has estimated the wind up funded ratio of the Plan to be significantly less than 80%.
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.
5. Such further reasons as may come to my attention.

K. David Gordon
Deputy Superintendent, Pensions

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario,
this 27th day of August, 2004.

¹NOTE B PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services (the "Superintendent") to make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28, respecting the **Pension Plan for Hourly Employees of Maksteel Hamilton - Division of Maksteel Inc., Registration Number 1059146;**

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: Pauline Frenette
Associate Consultant
**Administrator
of the Pension Plan**

AND TO: Maksteel Inc.
7615 Torbram Road
Mississauga ON L4T 4A8

Attention: Jerry Sauer
Manager Human
Resources
Employer

AND TO: Ernst & Young Inc.
222 Bay Street, 16th Floor
Toronto-Dominion Centre
Toronto ON M5K 1J7

Attention: Sharon Hamilton
Manager
**Interim Receiver
for Maksteel Inc.**

AND TO: United Steelworkers
of America Local 5958
1031 Barton Street East
Hamilton ON L8L 3E3

Attention: Bryan Adamczyk
Staff Representative
Union

**NOTICE OF PROPOSAL TO
MAKE A DECLARATION**

WHEREAS:

1. The Pension Plan for Hourly Employees of Maksteel Hamilton - Division of Maksteel Inc., Registration Number 1059146, (the "Pension Plan") is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of
3. the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
4. The Pension Plan was wound up in full for those members who ceased to be employed effective between July 10, 2001 and December 14, 2001; and
5. The Superintendent initially appointed Arthur Andersen Inc. as the Administrator (the "Administrator")



of the Pension Plan on April 18, 2002 and on July 10, 2002, appointed Morneau Sobeco as Administrator to replace Deloitte & Touche; and

NOW THEREFORE TAKE NOTICE I

propose to consider to make a declaration pursuant to section 83 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most-recent actuarial report on the Pension Plan was the Supplemental Wind-Up Actuarial Report prepared as of July 31, 2001 by BCM Actuarial Consulting Ltd. That report showed a wind up deficiency of \$7,400 as at July 31, 2001. The Administrator had its actuary prepare a preliminary valuation of the Pension Plan as at December 31, 2001. The result of that review determined that the wind up deficiency had deteriorated to approximately \$283,075, and an estimated-funded ratio of 75% as at December 31, 2001.
2. Ernst & Young was appointed Interim Receiver of Maksteel Inc. on January 7, 2002.
3. The Administrator has advised that they have filed a Proof of Claim with the Interim Receiver in the amount of \$164,880 but was advised by the Interim Receiver that they are no funds are available for distribution to unsecured creditors.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario, this 3rd day of September, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28, respecting the **Fantom Technologies Inc. Salaried Employees Retirement Income Plan - Part A and Part B, Registration Number 0910810;**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David R. Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Fantom Technologies Inc.**
PO Box 1004
Welland ON L3B 5S1

Attention: Norm Wotherspoon
Treasurer
Employer

AND TO: **PricewaterhouseCoopers Inc.**
145 King Street West
Toronto ON M5H 1V8

Attention: Catherine Hristow
Vice President
**Interim Receiver and Trustee
in Bankruptcy for
Fantom Technologies Inc.**

**NOTICE OF PROPOSAL TO
MAKE A DECLARATION**

WHEREAS:

1. Fantom Technologies Inc. Salaried Employees Retirement Income Plan - Part A and Part B, Registration Number 0910810 (the "Pension Plan"), is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of
3. the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
4. The Pension Plan was wound up in full for those members who ceased to be employed effective between October 12, 2001 and March 22, 2002; and
5. The Superintendent of Financial Services initially appointed Deloitte & Touche Inc. as the administrator (the "Administrator") of the Pension Plan on April 25, 2002, and on July 11, 2002, appointed Morneau Sobeco as Administrator to replace Deloitte & Touche; and

NOW THEREFORE TAKE NOTICE I
propose to consider to make a declaration

pursuant to section 83 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most recent actuarial valuation performed as at December 31, 2000, had a solvency deficiency of \$784,300 and a transfer ratio of 63%. Further, the Administrator had its actuary performed a preliminary valuation as at March 22, 2002, and the results of that review determined that the wind up funded ratio had deteriorated from 63% as at December 31, 2000 to approximately 48% as at March 22, 2002, and that the wind up deficit had increased to \$1,228,200 from \$784,300.
2. On October 25, 2001, Fantom Technologies Inc.'s request to obtain creditor protection for a temporary period under the *Companies' Creditors Arrangement Act* ("CCAA") was approved by an Order of the Ontario Superior Court of Justice. The Court appointed PricewaterhouseCoopers Inc. as the Monitor, as required under the CCAA proceedings and also appointed PricewaterhouseCoopers Inc. as Interim Receiver of the Fantom Technologies Inc.

On March 22, 2002, the Court issued an Order terminating the CCAA proceedings and discharged PricewaterhouseCoopers Inc. as Monitor but directed it to continue in its role as Interim Receiver. On the same day, PricewaterhouseCoopers Inc. was appointed Trustee in Bankruptcy.

3. The Administrator has filed a proof of claim in respect of the estimated \$1,025,302, deficit with the Trustee in

Bankruptcy. The Administrator advises that the Trustee in Bankruptcy has not completed their administration of the bankruptcy but have advised them that it is unlikely there will be any proceeds from the bankrupt estate of Fantom Technologies Inc. to make payments to the Pension Plan.

4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

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Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

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¹ PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

**REQUIRE A HEARING, I MAY MAKE THE
DECLARATION PROPOSED HEREIN.**

DATED at North York, Ontario, this
15th day of September, 2004.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the Pension Benefits Act, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services (the "Superintendent") to Make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28, respecting the **Pension Plan for Hourly Employees of Canadian Tack and Nail Ltd., Registration Number 0241968;**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Canadian Tack and Nail Ltd.**
431 Dundas Street
P.O. Box 754
Cambridge ON N1R 5W6

Attention: Gary Ayers
Vice President & General
Manager
Employer

AND TO: **KPMG Inc.**
20 Erb Street West
Marsland Centre, 3rd Floor
Waterloo ON N2L 1T2

Attention: Robert J. Bradley
Senior Manager
**Trustee in Bankruptcy
for Canadian Tack and
Nail Ltd.**

**NOTICE OF PROPOSAL TO
MAKE A DECLARATION**

WHEREAS:

1. The Pension Plan for Pension Plan for Hourly Employees of Canadian Tack and Nail Ltd., Registration Number 0241968, (the "Pension Plan") is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Deputy Superintendent, Pensions, has issued a Notice of Proposal dated September 15, 2004, to order the wind up of the Pension Plan in full for those members who ceased to be employed effective between March 20, 2003 and April 1, 2003 pursuant to section 69 of the Act; and
4. The Superintendent of Financial Services appointed Morneau Sobeco as the administrator (the "Administrator") of the Pension Plan on June 9, 2003.

NOW THEREFORE TAKE NOTICE I
propose to consider to make a declaration



pursuant to section 83 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most-recent actuarial valuation report on the Pension Plan was prepared as of December 31, 2000 by Cowan Wright Limited. That report showed a solvency excess of \$84,900 as at December 31, 2000. The Administrator had its actuary prepare a preliminary valuation of the Pension Plan as at April 1, 2003. The result of that review determined that the wind up estimated-funded ratio had deteriorated to approximately 22% and that the Pension Plan now has a wind up deficit of \$118,200 as at April 1, 2003.
2. KPMG was appointed Trustee in Bankruptcy for Canadian Tack and Nail Ltd. on April 1, 2003.
3. The Administrator has advised that they have filed a Proof of Claim on behalf of the Pension Plan, with the Trustee in Bankruptcy but was advised by the Trustee in Bankruptcy that they are no funds are available for distribution to the Pension Plan.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you

you deliver to the Tribunal a written notice that you require a hearing.¹

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario,
this 6th day of October, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services (the "Superintendent") to make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28, respecting the **Pension Plan for Salaried Employees of Canadian Tack and Nail Ltd., Registration Number 0581306;**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Canadian Tack and Nail Ltd.**
431 Dundas Street
P.O. Box 754
Cambridge ON N1R 5W6

Attention: Gary Ayers
Vice President
& General Manager
Employer

AND TO: **KPMG Inc.**
20 Erb Street West
Marsland Centre, 3rd Floor
Waterloo ON N2L 1T2

Attention: Robert J. Bradley
Senior Manager
**Trustee in Bankruptcy
for Canadian Tack and
Nail Ltd.**

**NOTICE OF PROPOSAL TO
MAKE A DECLARATION**

WHEREAS:

1. The Pension Plan for Pension Plan for Salaried Employees of Canadian Tack and Nail Ltd., Registration Number 0581306 (the "Pension Plan"), is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Deputy Superintendent, Pensions, has issued a Notice of Proposal dated September 3, 2004, to order the wind up of the Pension Plan in full for those members who ceased to be employed effective between March 20, 2003 and April 1, 2003 pursuant to section 69 of the Act, and
4. The Superintendent of Financial Services appointed Morneau Sobeco as the Administrator (the "Administrator") of the Pension Plan on June 9, 2003.

NOW THEREFORE TAKE NOTICE I
propose to consider to make a declaration

pursuant to section 83 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most-recent actuarial valuation report on the Pension Plan was prepared as of December 31, 1999 by Wright Mogg & Associates Ltd. That report showed a wind up deficiency of \$65,000 as at December 31, 2001. The Administrator had its actuary prepare a preliminary valuation of the Pension Plan as at April 1, 2003. The result of that review determined that the wind up deficiency had deteriorated to approximately \$328,000 and an estimated-funded ratio of 14% as at April 1, 2003.
2. KPMG was appointed Trustee in Bankruptcy for Canadian Tack and Nail Ltd. on April 1, 2003.
3. The Administrator has advised that they have filed a Proof of Claim with the Trustee in Bankruptcy in the amount of \$163,756 but was advised by the Trustee in Bankruptcy that they are no funds are available for distribution to the Pension Plan.
4. The Administrator has advised that there are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you,

you deliver to the Tribunal a written notice that you require a hearing.¹

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DATED at North York, Ontario,
this 6th day of October, 2004.

K. David Gordon
Deputy Superintendent, Pensions

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IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services (the "Superintendent") to Make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28, respecting the **Commercial Aluminum (1993) Limited Hourly Employees Pension Plan**, Registration Number 1010289;

TO: **Thompson Actuarial Limited**
87 Wolverleigh Blvd.
Toronto ON M4J 1R8

Attention: Andre Choquet, FCIA, FSA
Actuary
**Administrator
of the Pension Plan**

AND TO: **Commercial
Aluminum Limited**
240 Barton Road
Weston ON M9M 2W6

Attention: Suzanne Lam-Fitzgibbon
Employer

AND TO: **SF Partners Inc.
(formerly Solursh
Feldman Goldberg Inc.)**
The Madison Centre
4950 Yonge Street, Suite 400
Toronto ON M2N 6K1

Attention: Brahm Rosen
Senior Vice President
**Trustee in Bankruptcy for
Commercial Aluminum
(1993) Limited**

AND TO: **United Steelworkers
of America**
115 Albert Street
P.O. Box 946
Oshawa ON L1H 7N1

Attention: Wess Dowsett
Staff Representative

**NOTICE OF PROPOSAL TO
MAKE A DECLARATION**

WHEREAS:

1. The Commercial Aluminum (1993) Limited Hourly Employees Pension Plan, Registration Number 1010289 (the "Pension Plan"), is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Pension Plan was wound up in full effective December 31, 2001, and
4. The Superintendent of Financial Services appointed Thompson Actuarial Limited as the Administrator (the "Administrator") of the Pension Plan on October 4, 2002; and

NOW THEREFORE TAKE NOTICE I

propose to consider to make a declaration pursuant to section 83 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The Wind-Up Valuation Report filed by the Administrator indicates an estimated funding deficiency of \$94,825 as at December 31, 2001 and an estimated claim against the Guarantee Fund as at December 31, 2001 of \$78,525.
2. SF Partners Inc. was appointed Trustee in Bankruptcy for Commercial Aluminum (1993) Limited on January 30, 2002.
3. The Administrator has advised that they have filed a Proof of Claim on behalf of the Pension Plan, with the Trustee in Bankruptcy but was advised by the Trustee in Bankruptcy that they are no funds are available for distribution to the Pension Plan.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

YOU ARE ENTITLED TO A

HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you you deliver to the Tribunal a written notice that you require a hearing.

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario this 14th day of October, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

Notice of Proposal to Refuse to Approve a Wind Up Report

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Refuse to Approve a Wind Up Report under Section 70(5) of the Act, relating to the **Bioforest Technologies Inc. Employees Pension Plan, Registration No. 1034362;**

TO: **Bioforest Technologies Inc.**
105 Bruce Street
Sault Ste. Marie ON P6A 2X6

Attention: Mr. Craig Howard
President
Administrator and Applicant

NOTICE OF PROPOSAL

I PROPOSE TO REFUSE TO APPROVE the wind up valuation report as at July 1, 2000 dated October, 2000 and filed October 3, 2001 (the "Report") in respect of the full wind up of the Bioforest Technologies Inc. Employees Pension Plan, Registration No. 1034362 (the "Plan").

REASONS:

1. The Plan is a single employer pension plan administered by Bioforest Technologies Inc ("Bioforest"). In February 2001, Financial Services Commission of Ontario ("FSCO") staff became aware through the review of a member termination election form that Bioforest had elected to wind up the Plan effective July 1, 2000.

2. In two letters dated February 14, 2001 to Bioforest, FSCO staff advised Bioforest of the requirements of the Act in respect of an employer-initiated wind up of a pension plan. Specifically, Bioforest was advised of the requirement in Section 29(3) of Regulation 909, R.R.O. 1990 (the "Regulation") that a wind up report be filed within 6 months of the effective date of the wind up. An additional follow-up letter dated June 21, 2001 was sent by FSCO staff to Bioforest again requesting that Bioforest file a wind up report.
3. By letter dated September 21, 2001, Mr. Ashley Crozier, of Crozier Consultants Inc., the actuary, filed an unsigned Report with FSCO.
4. FSCO staff sent a letter to the actuary dated January 4, 2002. The letter listed the following items as areas of concern with the contents of the Report:

(1) The Report was not signed by the actuary and, therefore, did not comply with the requirements of Section 15(1) and Section 16 of the Regulation R.R.O. 1990, as amended (the "Regulation").

(2) Staff requested confirmation that the bridge benefit set out in the Plan had been valued for those members whose age and service equal 55 or who have more than 10 years of service;

(3) Staff requested confirmation that the minimum value of employees' contributions plus interest had been

provided for pre-1986 benefits as required by Section 39(1) of the Act;
(4) Staff indicated that the proposal in the Report to pay interest on the transfer values from the date of the wind up to the actual transfer date only to the extent that there were sufficient assets in the Plan did not comply with Section 24(11.1) and (12) of the Regulation, the funding requirements for a pension plan that is being wound up, as set out in Section 75 of the Act;

(5) Staff advised that the proposed surplus distribution method failed to meet the requirements of FSCO Policy S900-900 because the proposed surplus distribution method did not involve a distribution in proportion to liabilities and there was no basis provided by the actuary to support the conclusion that the proposed method of surplus distribution protected the interests of members, former members and other persons, other than an employer, who are entitled to payments under the pension plan at the date of wind up.

5. Despite the fact that staff sent an additional follow up letter to the actuary dated May 29, 2002 and a fax to Bioforest on September 19, 2002, no response to the January 4, 2002 letter has been received by FSCO to date.
6. Section 70(5) of the Act states that the "Superintendent may refuse to approve a wind-up report that does not meet the requirements of [the] Act and the regulations or that does not protect the interests of the members and former members of the pension plan."

7. The January 4, 2002 letter addressed compliance issues under Sections 74, 39(1), 75 and 70 of the Act and Section 24 of the Regulation, and since neither the actuary nor Bioforest provided the information and confirmations requested in the January 4, 2002 letter, the Superintendent is unable to conclude that the Report meets the requirements of the Act and regulations and that the Report protects the interests of the members, former members and other persons entitled to payments under the Plan.
8. The January 4, 2002 letter addressed compliance with Section 15(1) and Section 16 of the Regulation which requires the Report to be prepared by an actuary. The Superintendent is unable to confirm if the actuary prepared the Report because the actuary has not signed the Report adopting the opinions and certifications contained in the Report and purportedly provided by the actuary and neither the actuary nor Bioforest has provided any such confirmation. Thus the Superintendent is unable to confirm the Report meets the requirements of Section 15(1) and Section 16 of the Regulation.
9. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the Act. To request a hearing, you must deliver, to the Tribunal, a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

¹ NOTE - PURSUANT TO section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



YOUR WRITTEN NOTICE

must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at: 416- 226-7752, toll-free at: 1-800-668-0128, ext. 7752, or by fax at: 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY REFUSE TO APPROVE THE REPORT, AS PROPOSED IN THIS NOTICE.

DATED at North York, Ontario,
September 15th, 2004.

K. David Gordon
Deputy Superintendent, Pensions



Notices of Proposal to Refuse to Make an Order

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the “Act”);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
refuse to Make an Order under subsection
87(1) of the Act requiring Aviva Canada Inc.
(known (i) during the period December 31,
1999 to May 4, 2003, as CGU Group Canada
Ltd. and (ii) during the period January 1, 1998
to December 30, 1999, as General Accident
Group (Canada) Ltd. and (iii) prior to January
1, 1998 as the General Accident Assurance
Company of Canada) to make a payment
out of the **Pension Plan for the Employees
of the General Accident Assurance
Company of Canada and Associated
Companies, Registration No. 0264457**;

TO: Ms. L. Stojanovska
35 Partizanska UL., 2/2
7000 Bitola
Republic of Macedonia
Applicant

NOTICE OF PROPOSAL

**I PROPOSE TO REFUSE TO MAKE THE
ORDER** requested by Ms. L. Stojanovska
on June 24, 2002, to require Aviva
Canada Inc. to commence the payment
of her pension benefits from the Pension
Plan for the Employees of the General
Accident Assurance Company of Canada
and Associated Companies registration
number 0264457 (the “Plan”), prior to
the Applicant’s early retirement date.

I PROPOSE TO REFUSE TO MAKE THE REQUESTED ORDER FOR THE FOLLOWING REASONS:

1. The Applicant has not provided evidence that the Act has been contravened.
2. The Plan, as in effect on the Applicant’s date of termination of employment, February 9, 1999, stated that a member who has terminated employment with the company may, during the ten years preceding his/her normal retirement date, retire for the purposes of the Plan and receive a reduced pension.
3. The Plan defines normal retirement date as age 65, which would indicate that the earliest date a member or former member may receive a pension from the Plan would be age 55. According to the information provided, the Applicant’s date of birth is December 2, 1953. Thus, the Applicant’s earliest retirement date is January 1, 2009.
4. The Plan also indicates that any member who is suffering from Total Disability, which is considered permanent, may retire from active service after attaining age 50 and having at least 15 years of service.
5. At the time of the Applicant’s termination of employment, the Applicant was 45 years and one month old and had completed 24 years and two months of service. Although, the service requirement was satisfied, the Applicant did not satisfy the age requirement to be eligible for early payment due to Total Disability.
6. Under the terms of the Act, the earliest retirement date required by

legislation is ten years prior to the normal retirement date. There is no provision under the Act or Regulation 909, R.R.O. 1990, as amended, which requires an employer to allow a member or former member to receive retirement benefits prior to this time.

7. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the Tribunal) pursuant to subsection 89(6) of the Act if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.

YOUR WRITTEN NOTICE REQUIRING A HEARING must be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York ON M2N 6L9

Attn: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I WILL REFUSE TO MAKE THE REQUESTED ORDER.

DATED at Toronto, Ontario, this
21st day of September, 2004.

K. David Gordon
Deputy Superintendent, Pensions

c.c. Nancy Sudbury, Aviva Canada Inc.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Refuse to Make an Order under Section
68(6) of the Act respecting the **SCI
Brockville Corporation Pension Plan
for Salaried Employees, Registration
Number 0984146 (the "Plan")**;

TO: Mr. John Pitt
4381 Rainforest Drive
Gloucester ON K1V 1L4
Applicant

AND TO: SCI Brockville Corporation
100 Strowger Blvd.
Brockville ON K 6V 5W8
**Employer and
Administrator of the Plan**

NOTICE OF PROPOSAL

**I PROPOSE TO REFUSE TO MAKE
AN ORDER** under section 68(6) of the
Act directing SCI Brockville Corporation
(the "Company"), to change the
effective wind up date of the Plan.

REASONS FOR THE REFUSAL:

1. The Applicant was employed by the
Company on May 10, 1982. On January
5, 2001, the Applicant submitted a letter
of resignation which indicated that
he was resigning from the Company
effective January 26, 2001. On February
12, 2001, the Applicant was paid his

pension entitlement under the Plan
for his years of service up to January
26, 2001, in the sum of \$50,650.82.

2. The Company announced layoff of
its employees on January 31, 2001.
3. In October 2002, the Company announced
the closure of its operations in Brockville,
Ontario and also the wind up the Plan
effective October 25, 2002. The Wind
Up Report, prepared by Hewitt and
Associates ("Plan Actuary") indicated that
the Company began laying off employees
starting on January 31, 2001, therefore, all
members who were terminated on or after
January 31, 2001 were included in the wind
up and were entitled to wind up benefits.
4. The Applicant received a letter dated
January 14, 2004 from the Company which
confirmed that he received a pay out of
\$50,650.82 from the Plan on February
12, 2001 and advised him that the Plan
was wound up and he was entitled to an
additional wind up benefit of \$60,083.04.
5. However, by letter dated May 28, 2004,
from the Plan Actuary, the Applicant was
informed that subsequent to the mailing
of the correspondence advising him that
he was entitled to an additional wind up
benefit, it was discovered that due to his
termination of employment on January
26, 2001, he was not eligible to receive the
additional termination benefit from the
Plan as a result of the wind up of the Plan.
6. The letter also stated that the reason
for having made this change was that
the Wind Up Report as approved by
the Financial Services Commission of
Ontario ("FSCO"), indicated that only
former members who were terminated

on or after January 31, 2001 would be considered for eligibility for an additional benefit resulting from the wind up of the Plan. Since the Applicant terminated on January 26, 2001 he should not have been considered for additional benefits from the Plan. Accordingly the Plan Actuary concluded that the documentation sent to Applicant, which advised him of his entitlement to an additional wind up benefit, was done in error. As a result, the Applicant was not entitled to the additional benefits.

7. The Applicant in a letter to the Financial Services Commission of Ontario ("FSCO") dated June 22, 2004 confirmed that he submitted a letter of resignation on January 5, 2001 and that his last day of work was January 26, 2001. Although there was a final pay period with an ending date of February 2, 2001, the Record of Employment indicates that these amounts were vacation pay owing as at the time of termination of employment.
8. The Applicant is requesting that the Superintendent change the effective date for the wind up of the Plan. In support of his request the Applicant indicates that he terminated his employment with the Company in order to take up employment with another Employer. He said that some of the factors he took into consideration in terminating his services were that the Company's costs were going up, quality was decreasing and the Company had a surplus of plant capacity worldwide. Therefore, in his view plant closure was a definite possibility and it made sense to take up an offer from another Employer.

9. Under section 68(6) of the Act the Superintendent may change the effective date of wind up of a plan if the Superintendent is of the opinion that there are reasonable grounds for the change.
10. The Applicant voluntarily submitted a letter on January 5, 2001 terminating his employment on January 26, 2001. The reasons given for this termination were unrelated to the facts giving rise to the wind up.
11. There is no document to indicate that there was an announcement by the Company at or near the time of the Applicant's termination of employment, referring to a reorganization or potential closure of the operation.
12. The announcements of the closure of the operations were made in October 2002 well after the Applicant's date of termination of employment.
13. For the reasons set out above, the Superintendent is not of the opinion that there are reasonable grounds for changing the effective wind up date of the Plan.
14. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the Act. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

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Attention: The Registrar

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**IF YOU FAIL TO REQUEST A HEARING
WITHIN THIRTY (30) DAYS, I MAY
REFUSE TO MAKE THE ORDER AS
PROPOSED IN THIS NOTICE.**

DATED at North York, Ontario,
this 6th day of October, 2004.

K. David Gordon
Deputy Superintendent, Pension Division





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services,
under section 89(5) of the Act, to Refuse
to Make an Order pursuant to section 69
of the Act, Respecting the **Pension Plan
for AIG Assurance Canada Pension
Plan for Salaried Employees (the
"AIG Plan," Registration 0284604);**

TO: Mary Sutton and
other members and
former members of the Plan
as represented by the
Law Firm Koskie Minsky LLP
20 Queen Street West
Suite 900, Box 52
Toronto, Ont
M5H 3R3

Attention: Lesa MacDonald
Applicant

AND TO: AIG Life Insurance
Company of Canada
145 Wellington Street West
14th Floor
Toronto ON M5J 1H8

Attention: Peter McCarthy
President and CEO
Employer

NOTICE OF PROPOSAL

**I PROPOSE TO REFUSE TO MAKE
AN ORDER** that the Plan be wound
up under s.69(1)(a) of the Act.

REASONS FOR THE ORDER:

1. The Plan was established in 1960 as the Norwich Union Life Insurance Company (Canada) Pension Plan for Salaried Employees as a defined benefit plan. On May 1, 2001 the Norwich Union Life Insurance Company was acquired by a subsidiary of American International Group, Inc. ("AIG"), and the name of the Plan has been changed to AIG Assurance Canada Pension Plan for Salaried Employees.
2. As of May 1, 2001, all contributions to the Plan were discontinued and all members commenced participation in the Commerce and Industry Insurance Company of Canada Pension Plan, Registration # 0358911 (the "Commerce Plan"). The Commerce Plan is a defined contribution plan. Immediately prior to the transfer of members to the Commerce Plan, the Plan was converted to a defined contribution plan. Members were given the choice of converting their accrued defined benefits into a defined contribution account, or if they elected not to make to a conversion to have their defined benefit provided by way of annuities to the extent permitted by law.
3. The Employer has applied for an approval of the Superintendent for a transfer of assets of the Plan to Commerce Plan

under s.81 of the Act, and no transfer of assets can take place under section 81 without the consent of the Superintendent. Subsection 81(5) provides that the Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and other benefits of the members and former members of the original pension plan or that does not meet the prescribed requirements and qualifications.

4. The Applicant has requested the Superintendent to order the Plan be wound up under clause 69(1)(a) of the Act. Clause 69(1)(a) provides that the Superintendent may order a wind up of a plan where there is a cessation or suspension of Employer contributions to the pension fund.
5. The Applicant's position is that with the discontinuation of the Plan and the continuation of its members in the Commerce Plan the criteria for clause 69(1)(a) has been met in that there is a discontinuation of contributions to the Plan by the Employer. The Applicant is also arguing that a wind up of the Plan is required to prevent the assets of the Plan from being exposed to the liabilities of any other Plan. The Applicant notes that the conversion application indicates the Plan has a surplus of \$8,972,790, and that the Employer is including the surplus in the proposed transfer of assets. The Applicant submits that the decision of the Ontario Court of Appeal in *Aegon Canada Inc. and Transamerica Life Canada v. ING Canada Inc.* [2003] O.J. No. 4755 (C.A.) leave to appeal denied [2003]

O.J. No.4748 (S.C.J.). ("Aegon") applies to this transfer and that the surplus in the Plan cannot be made available to fund Employer contribution obligations for other members of the Commerce Plan.

6. Sections 81 of the Act specifically contemplates that a transfer of assets may be made from one pension plan to another, subject to the consent of the Superintendent. Where contributions to a plan are being discontinued because the members and plan assets are being transferred to another plan and the Superintendent can approve the asset transfer under section 81, then clause 69(1)(a) can have no application to the pension plan.
7. The Plan was originally funded through an insurance policy provided by the Employer in its capacity as an insurer. The insurance policy is held under the terms of a trust executed in 1960 which has continued since that time subject to the replacement of individual trustees from time to time. Although the terms of the Plan in 1960 did not specifically provide for amalgamation with another plan, subsequent amendments made in 1988 did so provide.
8. The Aegon decision also involved a pension plan that was subject to trust. The Court of Appeal held the terms of that trust precluded the assets in that plan from being used to take contribution holidays in another plan when the two plans were merged. However, the trust in Aegon included restrictive provisions that are not present in the trust governing the Plan. Accordingly, the Employer was not

- precluded from adding amendments to the Plan that authorized the amalgamation of the Plan with another registered pension plan and may consolidate the assets and liabilities of the Plan with any other plan without a requirement to maintain separate accounting.
9. As the consolidation of the assets of the Plan with another plan is now specifically authorized by the terms of the Plan itself, and there is no language in the trust governing the pension fund that either precludes the transfer of assets to another plan or precludes the Plan from being amended to so provide, Aegon is not a basis for the Superintendent to refuse to consent to the transfer of the Plan's assets under subsection 81(5) of the Act.
 10. The Applicant has also argues that the court and tribunal decisions in *Bull Moose Tube Ltd. v. Ontario (Superintendent of Pensions)* [1994] O.J. No.626 (S.C); *LaHave Equipment Ltd. v. Nova Scotia (Superintendent of Pensions)* [N.S.J.] No.555 (C.A.); *The Corporation of the City of Kitchener v. Superintendent of Financial Services FST File No. P0172-2001 (FST)* are applicable to the trust governing the Plan to require the assets of the Plan to be held exclusively for the benefit of the members of the Plan and not to be consolidated with the assets of the Commerce Plan.
 11. The three decisions referred to by the Applicant all considered trust provisions in the context of whether the Employer of the pension plan in question was entitled to surplus, not whether the trust included language which would preclude a consolidation of the assets with another plan. In addition, the plans in those decisions were all subject to trusts that included "exclusive benefit" language which is not present in the trust that is applicable to the Plan. Accordingly, they do not assist the applicant in establishing that the principles of Aegon apply to the Plan to prohibit the proposed transfer of assets.
 12. The applicant has not identified any other basis upon which the Superintendent could conclude that the transfer of assets of the Plan would not "protect the pension benefits and any other benefits of the members and former members" of the Plan, and the transfer application otherwise complies will all FSCO policies governing asset transfers.
 13. In accordance with the Ontario Court of Appeal's decision in *Huus v. Ontario (Superintendent of Pensions)* 58 O.R.(3rd) 380 the Superintendent is deferring a final decision on the Employer's application to transfer the assets of the Plan to the Commerce Plan pending the final disposition of this Notice.
 14. Such further and other grounds as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing within thirty (30) days after this Notice of Proposal is served on you.

1NOTE - PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

YOUR WRITTEN NOTICE

must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by telephone at: 416-226-7752, toll-free at: 1-800-668-0128, ext. 7752, or by fax at: 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY MAKE THE ORDER PROPOSED IN THIS NOTICE.

DATED at North York, Ontario,
this 22nd day of October, 2004.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "PBA");

AND IN THE MATTER OF a Proposal of the
Superintendent of Financial Services to Refuse
to Make an Order under section 87 of the
PBA respecting a request by Lloyd Stephens
relating to the **Participating Co-operatives
of Ontario Trusteed Revised Pension
Plan, Registration No. 0345736;**

TO: **Lloyd Stephens**
40 Quinella Drive, Unit #43
London ON N6K 4K9
Applicant

AND TO: **Trustees of the
Participating Co-operatives
of Ontario Trusteed
Revised Pension Plan**
6790 Century Avenue, Suite 201
Mississauga ON L5N 2V8

Attn: Nancy Fletcher
Director, Pension
Administration
Administrator of the Plan

NOTICE OF PROPOSAL

**I PROPOSE TO REFUSE TO MAKE
AN ORDER** requiring the Administrator
to recalculate the pension benefits
owing to the Applicant to take into
account a period of military service.

REASONS:

1. The Participating Co-operatives of Ontario Trusteed Revised Pension Plan, Registration No. 0345736 (the "Plan") is a multi-Employer pension plan ("MEPP") administered by the Trustees of the Participating Co-operatives of Ontario Trusteed Revised Pension Plan (the "Administrator").
2. The Applicant is a former member of the Plan who is currently in receipt of pension benefits. The Applicant served with the Canadian Armed Forces from July 22, 1940 to October 17, 1945 during World War II.
3. The Applicant commenced employment with Gay Lea Foods Cooperative Limited ("Gay Lea"), an Employer participating in the Plan, on May 1, 1962 and commenced Plan membership on August 6, 1962. The Applicant's employment with Gay Lea ended on April 30, 1979, although pension contributions were made on his behalf by Gay Lea until February 29, 1980.
4. The Applicant now seeks credit in the calculation of his pension for his years of military service occurring prior to the commencement of his employment with Gay Lea.
5. The Plan text as it read when the Applicant was hired defined the term "Years of Service" as follows:

"Years of Service" means continuous years and fractions thereof of employment with the Company from commencement to leaving or retirement date, provided that service in the armed forces of the country, periods of absence through

sickness, and other absences approved by the Board of Directors, shall be included.

6. The Plan text was revised on October 15, 1970 so that the definition of "Years of Service" read as follows:

"Years of Service" refers to the period of continuous employment as an employee from his last date of employment to his normal retirement date or earlier retirement, death or termination from service. Any periods of absence through sickness or injury shall be included in these years of service if the employee is receiving disability income under the terms of a group insurance policy issued to the Company. Service in the armed forces of the country and other absences, if approved by the Board of Directors, shall also be included in the years of service. (emphasis added)

7. The version of the Plan text dated May 28, 1973 and effective January 1, 1972, which was in effect at the date the Applicant's employment ceased, stated in the definition of the term "Years of Service" that "[s]ervice in the armed forces of Canada and other absences shall, if approved by the Co-operative employing [the member] and agreed to by the Committee [of Administration], be included in his years of service."
8. On April 7, 1982, a revised version of the Plan text was adopted (the "1982 Plan Text") and made effective back to January 1, 1980. The definition of the

term "years of service" was amended to include the following sentence:

War service which occurs prior to the member's date of employment shall be included in service only if the member makes the contributions required to be made in respect of such service.

9. Further, section 5(h) of the 1982 Plan Text states:

A period of war service occurring prior to the member's date of employment shall be added to a member's years of contributory service only if the member has:

- (i) submitted an application in writing to the Committee indicating his willingness to contribute the amount required in order to add his period of war service to his years of contributory service;
- (ii) submitted such application while he was an employee; and
- (iii) paid to the Fund the amount required to satisfy the increase in the obligations of the Fund as a result of such service being added. (emphasis added).

If such a member retires or otherwise ceases to be in the service of a Co-operative employing him, prior to the member paying in full the amount required to satisfy the increase in the obligations of the Fund, the member may elect to pay, in a lump sum, the remaining balance provided the amount

is paid prior to his retirement date or other date on which he ceases to be in service. If the member dies while he is an employee and prior to a member paying in full the amount required to satisfy the increase in the obligations of the Fund, the beneficiary or estate of the member may elect to pay in a lump sum, the remaining balance provided such amount is paid within 60 days of the member's date of death. If the total amount is not paid, the period of war service which qualifies as contributory service shall be the same percentage as the amount actually paid is to the total amount required to be paid.

The amount required to be paid to satisfy the increase in the obligations of the Fund shall be as determined by the Actuary.

10. At no time during his employment with Gay Lea did the Applicant raise with Gay Lea or the Administrator the issue of recognition of his military service. In fact, the Applicant did not request recognition of his military service from the Administrator until 1998. To date, neither the Administrator nor Gay Lea have approved recognition of the Applicant's military service and the Applicant has made no contributions to the fund for the Plan in respect of his military service.
11. Although a pension plan is free to recognize periods of military service, the *Pension Benefits Act*, R.S.O. 1990, c. P.8 (the "PBA") does not require that pension plans do so. Section 19 of the PBA does require that the administrator of a pension plan ensure that the

pension plan and the pension fund are administered in accordance with:

- (a) the filed documents in respect of which the Superintendent has issued an acknowledgment of application for registration or a certificate of registration, whichever is issued later; and
- (b) the filed documents in respect of an application for registration of an amendment to the pension plan, if the application complies with this Act and the regulations and the amendment is not void under this Act.

12. In this case, the Plan text as it read throughout the period of the Applicant's employment and, thereafter, required that the Applicant request recognition of his military service and that approval be granted by the Employer and/or Administrator. The Applicant is, therefore, not entitled to recognition of his military service because he did not request recognition of his military service during his employment with Gay Lea and neither Gay Lea nor the Administrator approved the recognition of such service.
13. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the Act. To request a hearing, you must deliver, to the Tribunal, a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.

1 NOTE - PURSUANT TO section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

YOUR WRITTEN NOTICE

must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York, Ontario
M2N 6L9

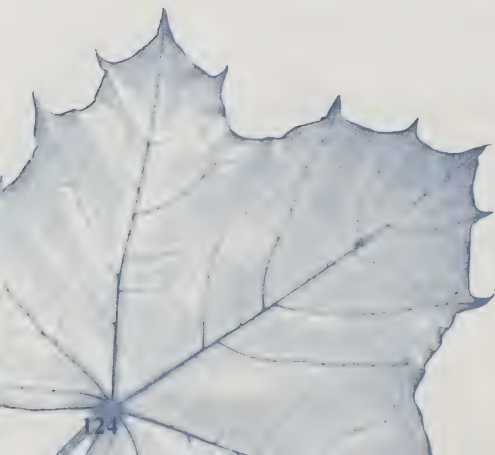
Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at: 416- 226-7752, toll-free at: 1-800-668-0128, ext. 7752, or by fax at: 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY REFUSE TO MAKE THE ORDER REQUESTED, AS PROPOSED IN THIS NOTICE.

DATED at North York, Ontario,
this 22nd day of October, 2004.

K. David Gordon
Deputy Superintendent, Pensions



Orders that Pension Plans be Wound Up

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Make an Order under section 69 of
the Act relating to the **Pension Plan for
Employees of Ryancon, Registration
Number 298430 (the "Plan")**;

TO: **PricewaterhouseCoopers Inc.**
Royal Trust Tower, Suite 3000
PO Box 82,
Toronto Dominion Centre
Toronto ON M5K 1G8

Attention: Mr. Tony Karkheck
Appointed
Administrator

AND TO: **Ryancon**
144 Sharer Road
Vaughan ON L4L 8P4

Attention: John D. Hains
Chief Financial Officer
Employer

AND TO: **BDO Dunwoody Limited**
33 City Centre Drive, Suite 680
Mississauga ON L5B 2N5

Attention: Mr. Darryl McConnell
Senior Manager
**Trustee in Bankruptcy/
Receiver and Manager**

ORDER

ON or about May 13, 2004, the Deputy
Superintendent, Pensions, issued a Notice
of Proposal dated May 13, 2004, to Make an
Order that the Plan be wound up in whole
effective March 31, 2003 through June 30,
2003 pursuant to section 69(1) of the Act.

NO REQUEST for a hearing has been
received by the Financial Services
Tribunal in connection with this matter.

I THEREFORE ORDER that the Plan
be wound up in whole effective March
31, 2003 through June 30, 2003.

REASONS:

1. Cessation or suspension of Employer contributions to the pension fund, pursuant to clause 69(1)(a) of the Act.
2. Failure of the Employer to make contributions to the pension fund as required by the Act or the regulations, pursuant to clause 69(1)(b) of the Act.
3. The Employer is bankrupt within the meaning of the *Bankruptcy & Insolvency Act*, pursuant to clause 69(1)(c) of the Act.
4. A significant number of members have ceased to be employed by the Employer as the result of the discontinuance or reorganization of all of part of business of the Employer, pursuant to clause 69(1)(d) of the Act.

DATED at North York, Ontario, this
9th day of July, 2004.

Tom Golfetto
Director, Pension Plans Branch
Financial Services Commission of Ontario





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of the
Superintendent of Financial Services to Make
an Order under section 69 of the Act relating
to the **Philip Services Inc. Pension Plan for
Intermetco Senior Management Employees,**
Registration Number 687608 (the "Plan");

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway
Suite 1100, Mississauga
ON L4Z 3M3

Attention: Mr. Tony Karkheck
Appointed
Administrator

AND TO: **Philip Services Inc.**
c/o PSC Metals Inc.
20521 Chagrin Boulevard
Cleveland OH 44122

Attention: Ms. Linda Bogdanovic
Director, Human Resources
Employer

AND TO: **Ernst & Young Inc.**
220 Bay Street, P.O. Box 251
Ernst & Young Tower
Toronto-Dominion Centre
Toronto ON M5K 1J7

Attention: Ms. Leslea Gordon
Trustee in Bankruptcy

ORDER

ON or about June 22, 2004, the Deputy
Superintendent, Pensions, issued a Notice
of Proposal dated June 17, 2004, to Make
an Order that the Plan be wound up
in whole effective December 30, 2003,
pursuant to section 69(1) of the Act.

NO REQUEST for a hearing has been
received by the Financial Services
Tribunal in connection with this matter.

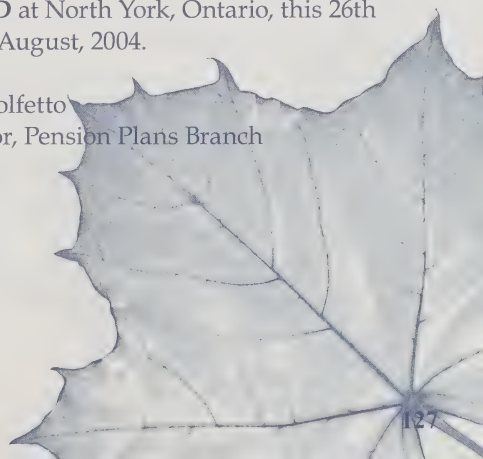
I THEREFORE ORDER that
the Plan be wound up in whole
effective December 30, 2003.

REASONS:

1. The Employer is bankrupt within the meaning of the Bankruptcy & Insolvency Act, pursuant to clause 69(1)(c) of the Act.
2. A significant number of members have ceased to be employed by the Employer as the result of the discontinuance or reorganization of all of part of business of the Employer, pursuant to clause 69(1)(d) of the Act.

DATED at North York, Ontario, this 26th
day of August, 2004.

Tom Golfetto
Director, Pension Plans Branch





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF an application
pursuant to s. 78(1) of the Act submitted
by City Of Kitchener in respect of the
**Corporation of the City of Kitchener
Pension Plan for Fire Department
Employees Registration Number 239475;**

TO: **City of Kitchener**
City Hall, P.O. Box 1118
200 King Street West
Kitchener ON N2G 4G7

Attention: Ms. Rosemary Upfold
Director of Accounting
**Employer and
Administrator of the Plan**

THE TRIBUNAL in its majority Reasons
dated June 24, 2004 affirmed the NOP
and directed the Superintendent to refuse
to consent to the Application.

NO APPEAL has been taken from the
decision of the Tribunal by the Employer and,
therefore, the decision of the Tribunal is final.

I THEREFORE REFUSE to consent to the
Application.

DATED at Toronto, Ontario, this
6th day of October, 2004.

K. David Gordon
Deputy Superintendent, Pensions

ORDER

ON or about August 23, 2001, the
Superintendent of Financial Services issued
a Notice of Proposal to Refuse to Consent to
Application (the "NOP") to The Corporation
of the City of Kitchener (the "Employer"),
in respect of the Employer's application
dated August 15, 2000 for the payment
of surplus to the Employer in respect of
the Corporation of the City of Kitchener
Pension Plan for Fire Department Employees,
Registration Number 239475 (the "Plan").

A REQUEST for Hearing dated September
21, 2001, was received by the Financial
Services Tribunal (the "Tribunal") in
connection with this matter and hearings
were held on July 14, 2003 and May 14, 2004.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
Make an Order under section 69 of the Act
relating to the **Employees' Retirement Plan
of Hoskins Alloys of Canada Limited,**
Registration Number 557868 (the "Plan");

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway
Suite 1100
Mississauga ON L4Z 3M3

Attention: Mr. Tony Karkheck
Human Resource Services
**Appointed
Administrator**

AND TO: **Hoskins Manufacturing Co.**
39500 High Pointe Boulevard,
Suite 300
Novi MI 48375

Attention: Phillip Varvatos
Controller
Employer

ORDER

ON or about August 27, 2004, the Deputy
Superintendent, Pensions, issued a Notice
of Proposal dated August 27, 2004, to
Make an Order that the Plan be wound
up in whole effective April 30, 2001
pursuant to section 69(1) of the Act.

NO REQUEST for a hearing has been
received by the Financial Services
Tribunal in connection with this matter.

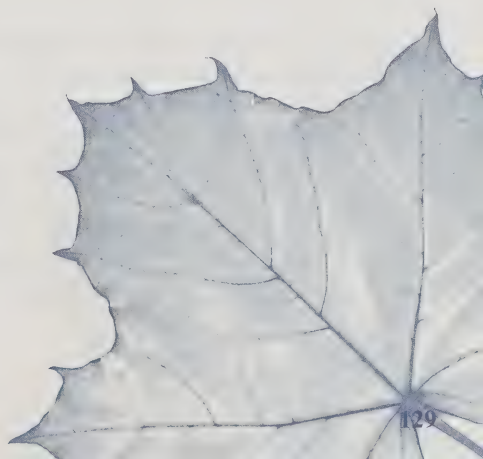
I THEREFORE ORDER that the Plan be
wound up in whole effective April 30, 2001.

REASONS:

1. Cessation or suspension of Employer
contributions to the pension fund,
pursuant to clause 69(1)(a) of the Act.
2. Failure of the Employer to make
contributions to the pension fund as
required by the Act or the regulations,
pursuant to clause 69(1)(b) of the Act.
3. A significant number of members have
ceased to be employed by the Employer
as the result of the discontinuance
or reorganization of all of part of
business of the Employer, pursuant
to clause 69(1)(d) of the Act.

DATED at North York, Ontario,
this 12th day of October, 2004.

Tom Golfetto
Director, Pension Plans Branch



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P.8, as amended (the "Act");

AND IN THE MATTER OF a Notice of Proposal issued by the Superintendent to Refuse to Approve a Partial Wind Up Report submitted by Monsanto Canada Inc. to the Superintendent of Financial Services respecting the **Pension Plan for Employees of Monsanto Canada Inc., Registration No. 341230;**

TO: **Pfizer Canada Inc.**
17300 Trans-Canada Highway
Kirkland, Québec
H9J 2M5

Attention: André Dupras
Director Total Compensation
**Employer and Administrator
of the Pension
Plan for Employees
of Monsanto Canada Inc.**

ORDER

ON or about the 30th day of November, 1998, the Superintendent of Financial Services (the "Superintendent") issued a Notice of Proposal to Refuse to Approve a Partial Wind up Report (the "Notice of Proposal") to the Employer and Administrator of the Pension Plan for Employees of Monsanto Canada Inc. (Registration No. 341230) (the "Plan") wherein she proposed to refuse to approve the Partial Plan Windup Report as at May 31, 1997 (the "Report") in relation to the employees who ceased to be employed by Monsanto Canada Inc. ("Monsanto") from

April 30, 1997 to December 31, 1998, as a result of the reorganization of the business of Monsanto including the closure of the Searle Canada location in Oakville, Ontario.

ON or about the 31st day of December, 1998, Monsanto Canada Inc. ("Monsanto") requested a hearing before the Financial Services Tribunal (the "Tribunal").

ON or about the 7th day of April, 1999, the Tribunal conducted a pre-hearing conference and amended the Notice of Proposal nunc pro tunc as a result of an agreement at the pre-hearing conference, consisting of corrections to the address of the Financial Services Commission, certain statutory requirements, and the deletion of an issue that was no longer relevant as at the date of the pre-hearing conference.

ON or about the 10th, 11th, and 12th days of January, 2000, and the 7th, 8th, 9th, 10th, and 11th days of February, 2000, the Tribunal conducted a hearing. The parties to the hearing were Monsanto as Applicant, the Superintendent as Respondent, the Association of Canadian Pension Management as an added party, and A Group of Certain Terminated Monsanto Employees as an added party.

ON or about the 14th day of April, 2000, the Tribunal issued its decision, in which the majority ordered the Superintendent to refrain from carrying out the Notice of Proposal and to approve the Report.



ON or about the 15th day of May, 2000, the Superintendent appealed the Tribunal's decision to the Superior Court of Justice - Ontario Divisional Court.

ON or about the 21st, 22nd, and 23rd days of November, 2000, the Superior Court of Justice - Ontario Divisional Court heard the appeal. The parties to the appeal were the Superintendent as Appellant in Appeal, Monsanto Canada Inc. and the Association of Canadian Pension Management as Respondents in Appeal, and National Trust Company and R.M. Smallhorn, D.G. Halsall and S.J. Galbraith as Intervenor in Appeal.

ON or about the 19th day of March, 2001, the Superior Court of Justice - Ontario Divisional Court released its decision, setting aside the order of the Tribunal and directing the Superintendent to carry out the proposal to refuse to approve the Report.

ON or about the 5th day of April, 2001, Monsanto, the Association of Canadian Pension Management, and National Trust Company each applied for leave to appeal the decision of the Superior Court of Justice - Ontario Divisional Court to the Court of Appeal for Ontario.

ON or about the 28th day of June, 2001, the Court of Appeal for Ontario granted leave to appeal the decision of the Superior Court of Justice - Ontario Divisional Court.

ON or about the 29th and 30th days of April, 2002, the Court of Appeal for Ontario heard the appeal. The parties were

Monsanto, the Association of Canadian Pension Management, and National Trust Company as Appellants, the Superintendent as Respondent, and Smallhorn, Halsall, and Galbraith as Respondents.

ON or about the 22nd day of November, 2002, the Court of Appeal for Ontario released its decision, dismissing the appeal.

ON or about the 5th day of June, 2003, the Supreme Court of Canada granted leave to Monsanto and to the Association of Canadian Pension Management to appeal the decision of the Court of Appeal for Ontario.

ON or about the 16th day of February, 2004, the Supreme Court of Canada heard the appeal. The parties were Monsanto and the Association of Canadian Pension Management as Appellants, the Superintendent as Respondent, the Attorney General of Canada as Intervener, National Trust Company as Intervener, Nicole Lacroix as Intervener, R.W. Smallhorn, D.G. Halsall, S.J. Galbraith and S.W. (Bud) Wesley as Interveners, and Canadian Labour Congress and Ontario Federation of Labour as Interveners.

ON the 29th day of July, 2004, the Supreme Court of Canada dismissed the appeal and held that subsection 70(6) of the Act requires actual distribution of the pro rata share of actuarial surplus on partial plan wind up.

ON September 1, 2000, as a result of Monsanto undergoing a corporate split, the

Plan became sponsored and administered by Searle & Company Canada Inc. as employer. The name of the Plan was changed to the Pension Plan for Searle & Company Canada Inc. Employees.

ON January 1, 2001, Pharmacia & Upjohn Inc. amalgamated with Searle & Company Canada Inc. to form the amalgamated corporation Pharmacia Canada Inc., which became the Sponsor, Employer and Administrator of the Plan.

ON April 16, 2003, Pfizer Inc. acquired Pharmacia Inc., the parent company of Pharmacia Canada Inc. Pfizer Inc. is the parent company of Pfizer Canada Inc.

ON August 23, 2003, Pfizer Canada Inc. and Pharmacia Canada Inc. amalgamated to continue as Pfizer Canada Inc. Pfizer Canada Inc. became the Sponsor, Employer and Administrator of the Plan.

THEREFORE the Superintendent:

1. **REFUSES** to approve the Partial Plan Windup Report as at May 31, 1997 dated July 1997 (the "Report") in relation to the employees who ceased to be employed by Monsanto Canada Inc. ("Monsanto") from April 30, 1997 to December 31, 1998, as a result of the reorganization of the business of Monsanto including the closure of the Searle Canada location in Oakville, Ontario pursuant to clause 88(2)(c) of the Act; and

2. **ORDERS** Pfizer Canada Inc. as the Administrator of The Pension Plan for Searle & Company Inc., Ontario Registration No. 0341230, to file with the Superintendent within ninety (90) days of the date of this Order a revised partial wind up report that provides for the pro rata distribution of surplus to the members affected by the partial wind up, namely, the employees who ceased to be employed by Monsanto Canada Inc. from April 30, 1997 to December 31, 1998 as a result of the reorganization of the business of Monsanto including the closure of its Searle Canada location in Oakville, Ontario.

DATED at Toronto, Ontario, this 22nd day of October, 2004.

K. David Gordon
Deputy Superintendent, Pensions

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28;

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order pursuant to section 87 of the *Pension Benefits Act*, R.S.O. 1990, c.P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28, respecting the **Ontario Teachers' Pension Plan, Registration No. 0345785;**

TO: **Ontario Teachers' Pension Plan Board**
5650 Yonge Street, 4th Floor
Toronto ON M2M 4H5

Attention: Claude R. Lamoureux
President &
Chief Executive Officer
Administrator of the
Ontario Teachers'
Pension Plan

ORDER

ON May 6, 1999, the Superintendent of Financial Services (the Superintendent) signed a Notice of Proposal to Make an Order against the Ontario Teachers' Pension Plan Board (the "Board"), proposing to order the Board to comply with section 51 and subsection 48(13) of the *Pension Benefits Act*, R.S.O. 1990, c.P.8 (the "Act") and pay to Ms. Anne Stairs from the Ontario Teachers'

Pension Plan (the "Plan") the amounts to which she is entitled in respect of her right to or interest in benefits provided under sections 48 and 51 of the Act set out in the domestic contract between Ms. Anne Stairs and her former spouse, Mr. John Roger Mowbray, within sixty (60) days from the date of the Superintendent's Order.

ON June 14, 1999, the Board requested a hearing before the Financial Services Tribunal (the "Tribunal").

ON July 21, 1999, the Tribunal conducted a pre-hearing conference.

ON March 27, 2000, the Tribunal conducted the hearing.

ON June 9, 2000, the Tribunal issued its decision dated May 31, 2000, in which it held that the Board was not required to pay to Ms. Anne Stairs an interest in the pre-retirement death benefit relating to the service of her former spouse, Mr. Roger Mowbray, pursuant to subsection 48(13) of the Act. The Tribunal directed the Superintendent to refrain from carrying out the Order contained in the Notice of Proposal.

ON July 6, 2000, Ms. Anne Stairs ("Ms. Stairs") filed a Notice of Appeal with the Divisional Court respecting the Tribunal's decision.

ON May 24, 2002, the Divisional Court heard the appeal and reserved its decision.

ON June 18, 2002, the Divisional Court issued its decision, allowing the appeal and setting aside the order of the Tribunal. The Divisional Court substituted an order directing the Superintendent to direct the Board to make the payment to Ms. Stairs according to the formula in the domestic contract, subject to the restrictions in subsections 51(1) and 51(2) of the Act.

ON July 4, 2002, the Board filed a motion to vary the Divisional Court's order under Rule 59.06 of the Rules of Civil Procedure.

ON September 3, 2002, the Divisional Court heard the motion to vary its order.

ON December 5, 2002, the Divisional Court issued its decision on the motion, in which it directed the Superintendent to direct the Board to honour Ms. Stairs' entitlement to the post-1986 pre-retirement death benefits, being one-half of the pension generated by 4.113 years of service or \$2,809.91 annually. The Divisional Court also declared that the Board was bound to honour the entitlement of Ms. Stairs to 50% of the pre-1987 pre-retirement death benefit.

ON December 20, 2002, the Board filed a Notice of Motion for Leave to Appeal the Divisional Court's orders dated June 18, 2002 and December 5, 2002.

ON December 20, 2002, Ms. Stairs filed a Notice of Motion for Leave to Cross-Appeal the Divisional Court's orders dated June 18, 2002 and December 5, 2002.

ON February 21, 2003, the Divisional Court issued a Supplementary Order awarding costs payable by the Board to Ms. Stairs in the amount of \$40,000.00 plus disbursements of \$2,487.10 and Goods and Services Tax in the amount of \$2,961.20.

ON March 19, 2003, the Court of Appeal granted leave to the Board to appeal the Divisional Court's orders dated June 18, 2002 and December 5, 2002, and granted leave to Ms. Stairs to cross-appeal the Divisional Court's orders.

ON March 25, 2003, the Board filed a Notice of Appeal with the Court of Appeal with respect to the Divisional Court's orders dated June 18, 2002 and December 5, 2002, and the Divisional Court's Supplementary Order dated February 21, 2003.

ON April 7, 2003, Ms. Stairs filed a Notice of Cross-Appeal with respect to the Divisional Court's orders dated June 18, 2002 and December 5, 2002.

ON November 10, 2003, the Court of Appeal heard the appeal.

ON February 10, 2004, the Court of Appeal released its decision, in which it ordered that the Board's appeal from the Divisional Court's orders dated June 18, 2002 and December 5, 2002 was dismissed, the Board's motion for leave to appeal the Divisional Court's Supplementary Order dated February 21, 2004 was granted, and the Board's appeal from the Divisional Court's Supplementary Order dated February 21, 2004 was dismissed.

and Ms. Stairs' Cross-Appeal was allowed in part. The Court of Appeal declared that Ms. Stairs is entitled to fifty per cent (50%) of the pre-retirement death benefit in respect of Mr. Roger Mowbray's service under the Plan that accrued between September 1, 1965 to December 31, 1986 (21.39705 years of credited service), valued at April 17, 1995, and that the Board is bound to honour this entitlement. The Court of Appeal ordered the Superintendent to direct the Board to make payment to Ms. Stairs of fifty per cent (50%) of the pre-retirement death benefit in respect of Mr. Roger Mowbray's service under the Plan that accrued between January 1, 1987 and March 7, 1991 (4.2269 years of credited service), valued at April 17, 1995. The Court of Appeal ordered that the parties calculate Ms. Stairs' pension entitlement on the basis of the reasons and conclusions set out in paragraphs 104 to 119 of the Court of Appeal's Reasons for Decision and the Divisional Court Order as amended, and that Ms. Stairs' survivor pension be paid accordingly. The Court of Appeal also ordered that the Board pay to Ms. Stairs her costs of the appeal on a partial indemnity basis, fixed in the amount of \$25,000.00 inclusive of Goods and Services Tax and disbursements. This order bears interest at the rate of 4% per annum commencing on the 10th day of February, 2004.

NO application for leave to appeal the Court of Appeal's decision has been filed with the Supreme Court of Canada.

IT IS THEREFORE ORDERED THAT the Ontario Teachers' Pension Plan Board pay to Ms. Anne Stairs fifty per cent (50%) of

the pre-retirement death benefit in respect of Mr. Roger Mowbray's service under the Plan that accrued between January 1, 1987 and March 7, 1991 (4.2269 years of credited service), valued at April 17, 1995, the commuted value of which is \$36,630.24.

DATED at North York, Ontario, this 22nd day of October, 2004.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to make an Order under section 69 of
the Act, respecting **Pension Plan for
Hourly Employees of Canadian Tack
and Nail Ltd., Registration Number
0241968 (the "Pension Plan")**;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: David R. Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Canadian Tack and Nail Ltd.**
431 Dundas Street
P.O. Box 754
Cambridge ON N1R 5W6

Attention: Gary Ayers
Vice President
& General Manager
Treasurer
Employer

AND TO: **KPMG Inc.**
20 Erb Street West
Marsland Centre, 3rd Floor
Waterloo ON N2L 1T2

Attention: Robert J. Bradley
Senior Manager
**Trustee in Bankruptcy
for Canadian Tack and
Nail Ltd.**

ORDER

ON the 16th day of September, 2004, the
Deputy Superintendent, Pensions, issued
a Notice of Proposal to make an Order
dated the 15th day of September, 2004,
pursuant to subsection 69(1) of Act to the
Administrator and to the Employer to
wind up in whole the Pension Plan.

NO Notice requiring a hearing was
delivered to the Financial Services
Tribunal ("Tribunal"), within the time
prescribed by subsection 89(6) of the Act.

IT IS THEREFORE ORDERED that the
Pension Plan be wound up in full for those
members who ceased to be employed
effective between March 20, 2003 and
April 1, 2003, for the following reasons:

1. the Employer is bankrupt within
the meaning of the *Bankruptcy and
Insolvency Act* (Canada);
2. a significant number of members
of the Pension Plan ceased to be
employed by the Employer as a result
of the discontinuance of all or part
of the business of the Employer or
as a result of the reorganization of
the business of the Employer;



3. all or a significant portion of the business carried on by the Employer at a specific location was discontinued.

DATED at Toronto, Ontario, this
26th day of October, 2004.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Make an Order under section 69 of
the Act, respecting the **Pension Plan for
Salaried Employees of Canadian Tack
and Nail Ltd., Registration Number
0581306 (the "Pension Plan")**;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: David R. Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Canadian Tack and Nail Ltd.**
431 Dundas Street
P.O. Box 754
Cambridge ON N1R 5W6

Attention: Gary Ayers
Vice President
& General Manager
Treasurer
Employer

AND TO: **KPMG Inc.**
20 Erb Street West
Marsland Centre, 3rd Floor
Waterloo ON MN2L 1T2

Attention: Robert J. Bradley
Senior Manager
**Trustee in
Bankruptcy for Canadian Tack
and Nail Ltd.**

ORDER

ON the 3rd day of September, 2004, the
Deputy Superintendent, Pensions, issued
a Notice of Proposal to make an Order
dated the 3rd day of September, 2004,
pursuant to subsection 69(1) of Act to the
Administrator and to the Employer to
wind up in whole the Pension Plan.

NO Notice requiring a hearing was
delivered to the Financial Services
Tribunal ("Tribunal"), within the time
prescribed by subsection 89(6) of the Act.

IT IS THEREFORE ORDERED that the
Pension Plan be wound up in full for those
members who ceased to be employed
effective between March 20, 2003 and
April 1, 2003, for the following reasons:

1. there was a cessation or suspension
of Employer contributions to
the pension fund;
2. the Employer failed to make
contributions to the pension fund as
required by the Act or regulations;
3. the Employer is bankrupt within
the meaning of the *Bankruptcy
and Insolvency Act* (Canada);
4. a significant number of members
of the Pension Plan ceased to be
employed by the Employer as a result



- of the discontinuance of all or part of the business of the Employer or as a result of the reorganization of the business of the Employer;
5. all or a significant portion of the business carried on by the Employer at a specific location was discontinued.

DATED at Toronto, Ontario, this
26th day of October, 2004.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Make an Order under section 69 of
the Act, respecting the **Pension Plan
for the Employees of Elias Markets
Ltd., Registration Number 1063486;**

TO: **Standard Life
Assurance Company**
1245 Sherbrooke Street West
Montreal PQ H3G 1G3

Attention: Dominic Muro
Compliance Support Specialist
Group Savings and Retirement
**Administrator
of the Pension Plan**

AND TO: **Elias Markets Ltd.**
250 Tecumseh Road East
Windsor ON N8X 2R3

Attention: Joe Elias
President
Employer

ORDER

ON the 29th day of June 2004, the Deputy
Superintendent, Pensions, issued a Notice of
Proposal to Make an Order dated the 29th
day of June, 2004, pursuant to subsection
69(1) of Act to the Administrator and to the
Employer to wind up in whole the Pension
Plan for the Employees of Elias Markets Ltd.,

Registration Number 1063486 (the "Pension
Plan"), up in full effective August 23, 2002.

NO Notice requiring a hearing was
delivered to the Financial Services
Tribunal ("Tribunal"), within the time
prescribed by subsection 89(6) of the Act.

IT IS THEREFORE ORDERED that
the Pension Plan for the Employees
of Elias Markets Ltd., Registration
Number 1063486 (the "Pension Plan"),
be wound up in full effective August
23, 2002, for the following reasons:

1. There was a cessation or suspension
of Employer contributions
to the pension fund.
2. The Employer failed to make
contributions to the pension fund as
required by the Act or regulations.
3. The Employer is bankrupt within
the meaning of the *Bankruptcy
and Insolvency Act* (Canada).
4. All or a significant portion of the
business carried on by the Employer
at a specific location is discontinued.

PURSUANT TO subsection 69(2) of the
Act, the Administrator is required to
give notice of this Order to the following
persons by transmitting a copy hereof:

Richter & Partners Inc.
200 King Street West
Suite 1900, P.O. Box 1900
Toronto ON M5H 3T4



Attention: Jackie Glazer
Interim Receiver
of Elias Markets Ltd.

DATED at Toronto, Ontario, this 20th
day of August, 2004.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



Consents to Payment of Surplus out of Wound Up Pension Plans

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

Applicant or any other party within the time
prescribed by subsection 89(6) of the Act.

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
Make an Order under subsection 78(1) of
the Act consenting to a payment out of the
**Pension Plan for Employees of Dymet
Limited, Registration Number 0242735;**

TO: **Dymet Limited**
1235 Bay Street
Suite 400
Toronto ON M5R 3K4

Attention: Mr. E. A. Campbell
Controller
Applicant and Employer

CONSENT

ON or about June 4, 2004, the Superintendent
of Financial Services caused to be served
on Dymet Limited a Notice of Proposal
dated June 4, 2004, to consent, pursuant to
subsection 78(1) of the Act, to the payment
out of the Pension Plan for Employees of
Dymet Limited, Registration Number
0242735, to Dymet Limited in the amount
of 50% of the partial wind up surplus of
\$636,915 as at August 23, 1996, plus 50% of
investment earnings thereon to the date
of payment, less 50% of expenses relating
to the partial wind up of the Plan.

NO Notice requiring a hearing was delivered
to the Financial Services Tribunal by the

**THE SUPERINTENDENT OF FINANCIAL
SERVICES THEREFORE CONSENTS** to
the payment out of the Pension Plan for
Employees of Dymet Limited, Registration
Number 0242735, to Dymet Limited in
the amount of 50% of the partial wind up
surplus of \$636,915 as at August 23, 1996,
plus 50% of investment earnings thereon to
the date of payment, less 50% of expenses
relating to the partial wind up of the Plan.

**THIS CONSENT IS EFFECTIVE ONLY
AFTER** the Applicant satisfies me that all
benefits and benefit enhancements pursuant
to the Surplus Distribution Agreement set out
in paragraph 5 of the Notice of Proposal dated
June 4, 2004 and any other payments to which
the members, former members, and any other
persons entitled to such payments have been
paid, purchased, or otherwise provided for.

DATED at Toronto, Ontario,
this 28th day of July, 2004.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

c.c. Kerry Worgan, Mercer
Human Resource Consulting
Susan Philpott, Koskie Minsky LLP



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to Make an Order under subsection 78(1)
of the Act consenting to a payment out of
the **Pension Plan for Employees of Rio
Tinto North American Services Limited,**
Registration Number 0553362;

TO: **QIT-Fer et Titane Inc.**
1625 Marie-Victorin
Tracy, Quebec
J3R 1M6

Attention: Rolland G. Morier
Senior Vice-President, Finance
Applicant and Employer

CONSENT

ON or about October 8, 2003, the
Superintendent of Financial Services caused
to be served on QIT-Fer et Titane Inc. a
Notice of Proposal dated October 6, 2003
to consent, pursuant to subsection 78(1) of
the Act, to the payment out of the Pension
Plan for Employees of Rio Tinto North
American Services Limited, Registration
Number 0553362, to QIT-Fer et Titane Inc.
in the amount of \$7,531,352 as at September
30, 2002, adjusted for investment earnings
and expenses to the date of the payment.

NO Notice requiring a hearing was delivered
to the Financial Services Tribunal by the
Applicant or any other party within the time
prescribed by subsection 89(6) of the Act.

**THE SUPERINTENDENT OF FINANCIAL
SERVICES THEREFORE CONSENTS** to
the payment out of the Pension Plan for
Employees of Rio Tinto North American
Services Limited, Registration Number
0553362, to QIT-Fer et Titane Inc. in the
amount of \$7,531,352 as at September 30,
2002, adjusted for investment earnings and
expenses to the date of the payment.

**THIS CONSENT IS EFFECTIVE ONLY
AFTER** the Applicant satisfies me that all
the surplus entitlements of the members
have been paid or otherwise provided
for in accordance with the terms of the
Surplus Distribution Agreement.

DATED at Toronto, Ontario,
this 28th day of July, 2004.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

c.c. Ms. Susan E. Fremes, Mercer
Human Resource Consulting





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to Make an Order under subsection
78(1) of the Act consenting to a payment
out of the **Restated Pension Plan for
Employees of Downey Building Materials
Limited, Registration Number 469718;**

TO: **Downey Building
Materials Limited**
539 Great Northern Road
Sault Ste. Marie ON P6B 5A1

Attention: A. Melville
Accountant & Director
Applicant and Employer

CONSENT

ON or about April 8, 2004, the Superintendent
of Financial Services caused to be served
on Downey Building Materials Limited a
Notice of Proposal dated April 8, 2004, to
consent, pursuant to subsection 78(1) of the
Act, to payment out of the Restated Pension
Plan for Employees of Downey Building
Materials Limited, Registration No. 469718,
to Downey Building Materials Limited in the
amount of \$90,152.57 as at October 2, 2002,
plus investment earnings thereon to the
date of payment, less all expenses related to
the plan wind up and surplus application.

NO Notice requiring a hearing was delivered
to the Financial Services Tribunal by the

Applicant or any other party within the time
prescribed by subsection 89(6) of the Act.

**THE SUPERINTENDENT OF FINANCIAL
SERVICES THEREFORE CONSENTS** to the
payment out of The Restated Pension Plan
for Employees of Downey Building Materials
Limited, Registration Number 469718, to
Downey Building Materials Limited in the
amount of \$90,152.57 as at October 2, 2002,
plus investment earnings thereon to the
date of payment, less all expenses related to
the plan wind up and surplus application.

DATED at Toronto, Ontario, this
12th day of August, 2004.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

c.c. T. Ian McLeod, HR-On-Demand Inc.

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
Make an Order under subsection 78(1) of
the Act consenting to a payment out of the
**Guelph Dolime Limited Pension Plan for
Salaried and Hourly-Rated Employees,
Registration Number 0591909;**

TO: Carmeuse Lime
(Canada) Limited
c/o Blake,
Cassels & Graydon LLP
Box 25, Commerce Court West
199 Bay Street
Toronto, Ontario, Canada
M5L 1A9

Attention: Jeffrey Sommers
Applicant and Employer

CONSENT

ON or about June 29, 2004, the Superintendent
of Financial Services caused to be served on
Carmeuse Lime (Canada) Limited a Notice
of Proposal dated June 29, 2004, to consent,
pursuant to subsection 78(1) of the Act, to
payment out of the Guelph Dolime Limited
Pension Plan for Salaried and Hourly-Rated
Employees, Registration No. 0591909, to
Carmeuse Lime Canada Limited in the
amount of \$570,000 as at March 31, 2004, less
legal fees incurred by the Company relating
to the implementation and distribution of
the Surplus and adjusted for investment
gains and losses to the date of distribution.

NO Notice requiring a hearing was delivered
to the Financial Services Tribunal by the
Applicant or any other party within the time
prescribed by subsection 89(6) of the Act.

**THE SUPERINTENDENT OF FINANCIAL
SERVICES THEREFORE CONSENTS** to the
payment out of the Guelph Dolime Limited
Pension Plan for Salaried and Hourly-Rated
Employees, Registration Number 0591909,
to Carmeuse Lime (Canada) Limited in the
amount of \$570,000 as at March 31, 2004, less
legal fees incurred by the Company relating
to the implementation and distribution of
the Surplus and adjusted for investment
gains and losses to the date of distribution.

**THIS CONSENT IS EFFECTIVE ONLY
AFTER** the Applicant satisfies me that
all payments to which the members,
former members, and any other persons
entitled to such payments have been
paid or otherwise provided for.

DATED at Toronto, Ontario, this
19th day of August, 2004.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

c.c. Hugh O'Reilly, Cavalluzzo Hayes
Shilton McIntyre & Cornish LLP



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to make an Order under subsection
78(1) of the Act consenting to a payment
out of the **Pension Plan of Cumba**,
Registration Number 0558379;

TO: **CUMBA**
562 Eglinton Avenue East
Toronto ON M4P1B9

Attention: Patricia Cormier
Chief Administrator
Applicant and Employer

CONSENT

ON or about June 29, 2004, the Superintendent of Financial Services caused to be served on CUMBA a Notice of Proposal dated June 29, 2004, to consent, pursuant to subsection 78(1) of the Act, to payment out of the Pension Plan of CUMBA, Registration No. 0558379 (the "Plan"), to CUMBA in the amount of \$32,898.50, as at February 28, 2001, plus investment earnings thereon to the date of payment less 50% of the expenses relating to the wind up of the Plan.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the Act.

**THE SUPERINTENDENT OF FINANCIAL
SERVICES THEREFORE CONSENTS**

to the payment out of the Pension Plan of Cumba, Registration Number 0558379, to Cumba in the amount of \$32,898.50, as at February 28, 2001, plus investment earnings thereon to the date of payment less 50% of the expenses relating to the wind up of the Plan.

**THIS CONSENT IS EFFECTIVE
ONLY AFTER** the Applicant satisfies
me in writing that the member's portion
of the surplus assets, as set out in the
Surplus Sharing Agreement have been
paid or otherwise provided for.

DATED at Toronto, Ontario, this
20th day of August, 2004.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

c.c. Annie Doucet, The Standard
Life Assurance Company



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to Make an Order under subsection 78(1)
of the Act consenting to a payment out of
the **Retirement Income Plan for Salaried
Employees of BPB Canada Inc. and
Subsidiary and Associated Companies,
Registration Number 210039;**

TO: **BPB Canada Inc.**
2424 Lakeshore Road West
Mississauga ON L5J 1K4

Attention: Mr. Keith Campbell
Vice-President Finance
and C.F.O.
Applicant and Employer

CONSENT

ON or about July 7, 2004, the Superintendent
of Financial Services caused to be served
on BPB Canada Inc. a Notice of Proposal
dated July 7, 2004, to consent, pursuant
to subsection 78(1) of the Act, to payment
out of the Retirement Income Plan for
Salaried Employees of BPB Canada Inc.
and Subsidiary and Associated Companies,
Registration No. 210039, to BPB Canada
Inc. in the amount of \$28,129,000 as at
January 1, 2002 and adjusted for expenses
and investment earnings in accordance
with the surplus sharing agreement.

NO Notice requiring a hearing was delivered
to the Financial Services Tribunal by the

Applicant or any other party within the time
prescribed by subsection 89(6) of the Act.

**THE SUPERINTENDENT OF FINANCIAL
SERVICES THEREFORE CONSENTS** to the
payment out of the Retirement Income Plan
for Salaried Employees of BPB Canada Inc.
and Subsidiary and Associated Companies,
Registration Number 210039, to BPB Canada
Inc. in the amount of \$28,129,000 as at
January 1, 2002 and adjusted for expenses
and investment earnings in accordance
with the surplus sharing agreement.

DATED at Toronto, Ontario, this
7th day of September, 2004.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

Copy: Ms. Sonia Mak,
Borden Ladner Gervais LLP
Mr. Mark Zigler, Koskie Minsky
Mr. Brent Thomson
Mr. Keith Campbell
Ms. Alice Carr



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to Make an Order under subsection 78(4)
of the Act consenting to a payment out
of the **Retirement Plan for Employees
of Metso Automation Canada Ltd.,
Registration Number 543835;**

TO: Metso Automation
Canada Limited
32 Hymus Boulevard
Pointe-Claire QC H9R 1C9

Attention: Carrol Lamarche
Controller

CONSENT

ON or about August 11, 2004, the
Superintendent of Financial Services caused
to be served on Metso Automation Canada
Limited a Notice of Proposal dated August
11, 2004 to consent, pursuant to subsection
78(4) of the Act, to payment out of the
Retirement Plan for Employees of Metso
Automation Canada Ltd., Registration
No. 543835, to Metso Automation Canada
Limited in the amount of \$467,175 as at May
31, 2003, plus interest, at the fund rate of
return thereon, to the date of payment.

NO Notice requiring a hearing was delivered
to the Financial Services Tribunal by the
Applicant or any other party within the time
prescribed by subsection 89(6) of the Act.

**THE SUPERINTENDENT OF FINANCIAL
SERVICES THEREFORE CONSENTS** to
the payment out of the Retirement Plan for
Employees of Metso Automation Canada Ltd.,
Registration No. 543835, to Metso Automation
Canada Limited in the amount of \$467,175 as
at May 31, 2003, plus interest, at the fund rate
of return thereon, to the date of payment.

DATED at Toronto, Ontario, this
30th day of September, 2004.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



Declarations that the Pension Benefits Guarantee Fund Applies to Pension Plans - Subsection 83(1) of the *Pension Benefits Act*

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P. 8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to Make a Declaration under Section
83 of the Act respecting the **Pension
Plan for Hourly Employees of Cold
Metal Products Limited, Registration
Number 0975045 (the "Pension Plan")**;

TO: **PricewaterhouseCoopers Inc.**
P.O. Box 82, Royal Trust Tower
Toronto-Dominion Centre
Toronto ON M5G 1G8

Attention: Tony Karkheck
Senior Vice President
**Administrator
of the Pension Plan**

AND TO: **Cold Metal Products Limited**
65 Imperial Street
P.O. Box 66, LCD1
Hamilton ON L8L 7V2

Attention: Soheil Monzavi
General Manager
Employer

AND TO: **Richter & Partners**
200 King Street West
Suite 1900
Toronto ON M5H 3T4

Attention: Javed Rasool
Manager
**Trustee in Bankruptcy for
Cold Metal Products
Limited**

AND TO: **The United Steelworkers
of America Local, 4444**
1031 Barton Street East,
Room 113
Hamilton ON L8L 3E3

Attention: Roy Leslie
Staff Representative
Union

AND TO: **The United Steelworkers
of America Local, 7625**
4115 Ontario East
Montreal PQ H1V 1J7

Attention: Gaetan Pare
Local President
Union

DECLARATION

WHEREAS:

1. The Pension Plan for the Employees of
Pension Plan for Hourly Employees of
Cold Metal Products Limited, Registration
Number 0975045 (the "Pension Plan")
is registered under the *Pension Benefits
Act*, R.S.O. 1990, c. P. 8 as amended
by the *Financial Services Commission of
Ontario Act*, 1997, c. 28, (the "Act"); and

2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
 3. The Pension Plan was wound up effective March 17, 2003; and
 4. The Superintendent of Financial Services Commission appointed PricewaterhouseCoopers Inc. as the Administrator (the "Administrator") of the Pension Plan on June 16, 2003; and
 5. On April 8, 2004, the Deputy Superintendent, Pensions, issued a Notice of Proposal dated April 8, 2004, to Make a Declaration that the Guarantee Fund applies to the Pension Plan; and
 6. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the Act, has been received.
2. Following its appointment, the Administrator requested a preliminary estimate of the wind up liabilities of the Pension Plan as of March 31, 2003. The actuary estimated the wind up funded ratio as 55% on assets and liabilities of \$7,622,644, and \$12,154,000, respectively.
 3. Richter and Partners Inc. was appointed Interim Receiver of Cold Metal Products Limited on March 17, 2003 and Trustee in Bankruptcy on March 24, 2003.
 4. The Trustee in Bankruptcy has advised the Administrator that no assets are expected to become available for distribution to ordinary creditors of the bankrupt estate.
 5. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The last full Actuarial Valuation Report for this Pension Plan was produced by the plan actuary as of December 31, 1999. The Pension Plan was reported to have a 98% transfer ratio at that date. Subsequent to December 31, 1999, the actuary prepared Interim Actuarial Opinions on the Pension Plan on several occasions, most recent being as of December 31, 2002. As of December 31, 2002, the funded ratio of the Pension Plan was reported to be 66%.

DATED at North York, Ontario,
this 14th day of July, 2004.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Make a Declaration under section 83
of the Act relating to the **Pension Plan
for Employees of Ryancon, Registration
Number 298430 (the "Plan")**;

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway
Suite 1100,
Mississauga ON L4Z 3M3

Attention: Mr. Tony Karkheck
**Appointed
Administrator**

AND TO: **Ryancon**
144 Sharer Road
Vaughan ON L4L 8P4

Attention: John D. Hains
Chief Financial Officer
Employer

AND TO: **BDO Dunwoody Limited**
33 City Centre Drive, Suite 680
Mississauga ON L5B 2N5

Attention: Mr. Darryl McConnell
Senior Manager
**Trustee in Bankruptcy/
Receiver and Manager**

DECLARATION

WHEREAS:

1. The Pension Plan for Employees of Ryancon is registered under the Act as Registration Number 298430 (the "Plan"); and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Superintendent of Financial Services appointed PricewaterhouseCoopers Inc. Administrator of the Plan on December 17, 2003; and
4. On March 15, 2004, the Administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan; and
5. The Administrator's preliminary actuarial estimate of the deficit in the Plan as at August 31, 2003 is \$1,421,000 with a wind up funded ratio of 75.78% for the Plan; and
6. The Administrator has cutback all pensioners to the estimated funded ratio effective March 1, 2004 until further notice; and
7. On June 4, 2004, the Deputy Superintendent, Pensions, issued a Notice of Proposal to Make a Declaration that the Guarantee Fund applies to the Plan; and
8. On July 9, 2004, the Director, Pension Plans Branch, issued an order that the Plan be wound up effective March 31, 2003 through June 30, 2003; and
9. As of July 19, 2004, no request for a hearing before the Financial Services Tribunal has been made in respect

of the Notice of Proposal to Make a Declaration referred to in 7. above;

NOW THEREFORE TAKE NOTICE I

declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

REASONS FOR THE PROPOSED DECLARATION:

1. The Employer, Ryancon, was adjudged bankrupt on November 7, 2003.
2. The Administrator has estimated the wind up funded ratio of the Plan to be 75.78%.
3. The Administrator has estimated the deficit in the plan as of as at August 31, 2003 to be \$1,421,000.
4. The Trustee in Bankruptcy has advised the Administrator that there are not enough funds available for full distribution to the ordinary unsecured creditors
5. The Administrator is of the view that there are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be met.

DATED at North York, Ontario,
this 23rd day of July, 2004.

Tom Golfetto
Director, Pension Plans Branch

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P. 8, as amended (the "PBA");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
Make a Declaration under Section 83 of the
PBA respecting the **Retirement Plan for the
Employees of Alloy Wheels International
(Canada) Ltd., Registration Number 1036029;**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David R. Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Alloy Wheels
International (Canada) Ltd.**
49 Truman Road
Box 13000
Barrie ON L4M 6E7

Attention: Joan Oickle
Compensation
and Benefits Coordinator
Employer

AND TO: **Deloitte & Touche Inc.**
BCE Place
Suite 1400
181 Bay Street
Toronto ON M5J 2V1

Attention: David Murray
Partner
**Trustee in Bankruptcy
for Alloy Wheels International
(Canada) Ltd.**

AND TO: **CAW Canada - Local 1991**
178 Dunlap Street
Barrie ON L4M 4S6

Attention: Ed Little
President, Skill Trades Rep.
Union

DECLARATION

WHEREAS:

1. The Retirement Plan for the Employees of Alloy Wheels International (Canada) Ltd., (the "Pension Plan") Registration Number 1036029, is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Pension Plan was wound up effective January 19, 2001; and
4. The Superintendent of Pensions initially appointed Arthur Andersen Inc. as the Administrator (the "Administrator") of the Pension Plan on February 2, 2001 and on July 10, 2002, appointed Morneau Sobeco as Administrator to replace Deloitte & Touche; and

5. On July 16, 2004, the Deputy Superintendent, Pensions, issued a Notice of Proposal dated July 16, 2004, to Make a Declaration that the PBGF applies to the Pension Plan; and
6. No notice requiring a hearing by the Financial Services Tribunal, pursuant subsection 89 (6) of the Act, has been received.

DATED at North York, Ontario,
this 13th day of August, 2004.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

NOW THEREFORE TAKE NOTICE I

propose to consider to make a declaration pursuant to section 83 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The revised Actuarial Valuation Report filed by the Administrator indicates an estimated funding deficiency of \$2,097,300 as at January 19, 2001, and an estimated claim against the Guarantee Fund as at January 19, 2001 of \$1,258,296.
2. Deloitte & Touche Inc. was appointed Trustee in Bankruptcy of Alloy Wheels International (Canada) Ltd. on January 19, 2001.
3. Apart from a proof of claim of in the amount \$16,920 from the Trustee in Bankruptcy, there are no other funds available from the bankrupt estate of Alloy Wheels International (Canada) Ltd. to make payments to the Pension Plan.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Make a Declaration under section 83
of the Act relating to the **Pension Plan
for Unionized Employees of Northern
Globe Building Materials (Thorold
Division)**, Registration Number 680405
(formerly C-104311) (the "Plan");

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Ms. Pauline Frenette
Associate Consultant
Administrator

AND TO: **Striker Paper Canada, Inc.**
100 Ormond Street South
P.O. Box 10,
Thorold ON L2V 3Y7

Attention: Ms. Patricia Gough, Manager
Employer

AND TO: **BDO Dunwoody Limited**
Royal Bank Plaza
P.O. Box 33
Toronto ON M5J 2J9

Attention: Mr. Mark Chow
Trustee in Bankruptcy

AND TO: **Communications, Energy
and Paper Workers
Union of Canada**
5890 Aspen Court
Niagara Falls ON L2G 7V3

Attention: Michael Lambert
National Representative
**Union Representative
for the members of the Plan**

DECLARATION

WHEREAS:

1. The Pension Plan for Unionized Employees of Northern Globe Building Materials (Thorold Division) is registered under the Act as Registration Number 680405 (formerly C-104311) (the "Plan"); and
2. The Plan provides defined benefits that are not exempt from the application of the
3. Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
4. The Superintendent of Financial Services appointed Morneau Sobeco Administrator of the Plan on July 10, 2002; and
5. The Superintendent of Financial Services issued an Order that the Plan be wound up effective February 22, 1999; and
6. The distribution of assets of the Plan proposed by the wind up report was approved by the Superintendent of Financial Services on April 21, 2004, subject to any additional funding that may be required from the Guarantee Fund; and
7. On March 5, 2004, the Administrator filed an application for a Declaration that the

- Guarantee Fund applies to the Plan; and
8. The wind up report identified a deficit in the Plan as at February 22, 1999 of \$349,343 and a wind up funded ratio of 0.0%, with an estimated claim against the Guarantee Fund of \$331,601; and
 9. On or about June 30, 2004 a Notice of Proposal to Make a Declaration that the Guarantee Fund applies to the Plan was issued by the Deputy Superintendent, Pensions; and
 10. As of August 16, 2004, no request for a hearing before the Financial Services Tribunal has been received by the Registrar in respect of the notice of proposal;

regulation cannot be satisfied.

DATED at North York, Ontario,
this 25th day of August, 2004.

Tom Golfetto
Director, Pension Plans Branch

NOW THEREFORE TAKE NOTICE I

declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

REASONS :

1. The Employer, Striker Paper Canada Inc. was adjudged bankrupt on March 22, 2000.
2. The Administrator has estimated the wind up funded ratio of the Plan to be 0.0%.
3. Without any recovery from the estate of the Employer, the potential claim against the Guarantee Fund as at the wind up date would be \$331,601.00.
4. The trustee in bankruptcy has advised the administrator that there are no funds available for the Plan from the Employer's estate.
5. There are reasonable and probable grounds for concluding that the funding requirements of the Act and



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Make a Declaration under section 83 of
the Act relating to the **Philip Services Inc.
Retirement Pension Plan for Members of
United Steelworkers of America, Local 6098,**
Registration Number 347047 (the "Plan");

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway
Suite 1100, Mississauga
ON L4Z 3M3

Attention: Mr. Tony Karkheck
Administrator

AND TO: **Philip Services Inc.**
c/o PSC Metals Inc.
20521 Chagrin Boulevard
Cleveland OH 44122

Attention: Ms. Linda Bogdanovic
Director, Human Resources
Employer

AND TO: **Ernst & Young Inc.**
220 Bay Street, P.O. Box 251
Ernst & Young Tower
Toronto-Dominion Centre
Toronto ON M5K 1J7

Attention: Ms. Leslea Gordon
Trustee in Bankruptcy

AND TO: **United Steelworkers
of America, Local 6098**
1031 Barton Street East,
Room 113
Hamilton ON L8L 3E3

Attention: Mr. Charlie Scibetta
**Union Representative
for the Members of the Plan**

DECLARATION

WHEREAS:

1. The Philip Services Inc. Retirement Pension Plan for Members of United Steelworkers of America, Local 6098 is registered under the Act as Registration Number 347047 (the "Plan"); and
2. The Plan provides defined benefits that are not exempt from the application of the
3. Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
4. On December 19, 2003, the Employer submitted to FSCO an amendment to wind up the plan effective July 31, 2003; and
5. The Employer made a voluntary assignment into bankruptcy on December 30, 2003 and Ernst & Young were appointed Trustee in Bankruptcy on December 30, 2003; and
6. The Superintendent of Financial Services appointed PricewaterhouseCoopers Inc. administrator of the Plan on March 19, 2004; and
7. On April 2, 2004, the Administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan; and

8. The Administrator's preliminary estimate of the deficit in the Plan as at July 31, 2003, before provision for wind up expenses and a contingency reserve, is \$1,373,000; and
 9. The Administrator filed a proof of claim on March 31, 2004 with the trustee in bankruptcy for an amount of \$1,800,000 in respect of the estimated deficiency in the Plan after provision for wind up expenses and a general contingency reserve; and
 10. The Trustee in Bankruptcy has advised the Administrator that the expected return to ordinary creditors of the bankrupt estate, of which the Plan is one, is 1 to 3 cents on the dollar; and
 11. On June 4, 2004, the Deputy Superintendent, Pensions, issued a Notice of Proposal to Make a Declaration that the Guarantee Fund applies to the Plan; and
 12. As of August 24, 2004, no request for a hearing before the Financial Services Tribunal has been made in respect of the Notice of Proposal to Make a Declaration referred to in 10. above;
- \$1,373,000 before any provision for wind up expenses and a contingency reserve.
3. The Administrator is of the view that there are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be met.

DATED at North York, Ontario, this 26th day of August, 2004.

Tom Golfetto
Director, Pension Plans Branch

NOW THEREFORE TAKE NOTICE I

declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

REASONS FOR THE PROPOSED DECLARATION:

1. The Employer, Philip Services Inc., voluntarily assigned itself into bankruptcy on December 30, 2003.
2. The Administrator has estimated the deficiency in the plan as of July 31, 2003, the date of wind up of the Plan to be

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Make a Declaration under section 83 of
the Act relating to the **Philip Services Inc.
Retirement Pension Plan for Members of
United Steelworkers of America, Local 6920,**
Registration Number 474932 (the "Plan");

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway
Suite 1100,
Mississauga ON L4Z 3M3

Attention: Mr. Tony Karkheck
Administrator

AND TO: **Philip Services Inc.**
c/o PSC Metals Inc.
20521 Chagrin Boulevard
Cleveland OH 44122

Attention: Ms. Linda Bogdanovic
Director, Human Resources
Employer

AND TO: **Ernst & Young Inc.**
220 Bay Street, P.O. Box 251
Ernst & Young Tower
Toronto-Dominion Centre
Toronto ON M5K 1J7

Attention: Ms. Leslea Gordon
Trustee in Bankruptcy

AND TO: **United Steelworkers
of America, Local 6920**
1031 Barton Street East,
Room 113
Hamilton ON L8L 3E3

Attention: Mr. Charlie Scibetta
**Union Representative
for the Members of the Plan**

DECLARATION

WHEREAS:

1. The Philip Services Inc. Retirement Pension Plan for Members of United Steelworkers of America, Local 6920 is registered under the Act as Registration Number 474932 (the "Plan"); and
2. The Plan provides defined benefits that are not exempt from the application of the
3. Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
4. On December 19, 2003, the Employer submitted to FSCO an amendment to wind up the plan effective July 31, 2003; and
5. The Employer made a voluntary assignment into bankruptcy on December 30, 2003 and Ernst & Young were appointed trustee in bankruptcy on December 30, 2003; and
6. The Superintendent of Financial Services appointed PricewaterhouseCoopers Inc. administrator of the Plan on March 19, 2004; and
7. On April 2, 2004, the administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan; and

8. The administrator's preliminary estimate of the deficit in the Plan as at July 31, 2003, before provision for wind up expenses and a contingency reserve, is \$1,777,000; and
 9. The administrator filed a proof of claim on March 31, 2004 with the trustee in bankruptcy for an amount of \$2,181,000 in respect of the estimated deficiency in the Plan after provision for wind up expenses and a general contingency reserve; and
 10. The trustee in bankruptcy has advised the administrator that the expected return to ordinary creditors of the bankrupt estate, of which the Plan is one, is 1 to 3 cents on the dollar; and
 11. On June 4, 2004, the Deputy Superintendent, Pensions, issued a notice of proposal to make a declaration that the Guarantee Fund applies to the Plan; and
 12. As of August 24, 2004, no request for a hearing before the Financial Services Tribunal has been made in respect of the notice of proposal to make the declaration referred to in 10. above;
- \$1,777,000 before any provision for wind up expenses and a contingency reserve.
3. The Administrator is of the view that there are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be met.

DATED at North York, Ontario,
this 26th day of August, 2004.

Tom Golfetto
Director, Pension Plans Branch

NOW THEREFORE TAKE NOTICE I

declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

REASONS FOR THE PROPOSED DECLARATION:

1. The Employer, Philip Services Inc., voluntarily assigned itself into bankruptcy on December 30, 2003.
2. The Administrator has estimated the deficiency in the plan as of July 31, 2003, the date of wind up of the Plan to be

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal
of the Superintendent of Financial
Services to Make a Declaration under
section 83 of the Act relating to the **Forest
City International Trucks Ltd. Non-
Contributory Retirement Plan (for Non-
Managerial Employees of U.A.W., Local 27)
Registration Number 405506 (the "Plan")**;

TO: **Ernst & Young Inc.**
222 Bay Street
P. O. Box 251
Toronto-Dominion Centre
Toronto ON M5K 1J7

Attention: Philip Kan
Manager
Administrator

AND TO: **Forest City
International Trucks Ltd.**
3003 Page Street
London ON N5V 4J1

Attention: John Parliament
Controller
Employer

AND TO: **C.A.W. Canada, Local 27**
310 Wellington Road South
London ON N6C 4P4

Attention: John Parliament
Controller
Union representative

DECLARATION

WHEREAS:

1. The Forest City International Trucks Ltd. Non-Contributory Retirement Plan (for Non-Managerial Employees of U.A.W., Local 27) is registered under the Act as Registration Number 405506 (the "Plan"); and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. Peat Marwick Thorne was appointed Receiver of the Employer on May 23, 1991, and on or soon thereafter appointed trustee in bankruptcy for the Employer; and
4. On October 6, 1993, the said receiver and trustee in bankruptcy was discharged; and
5. On February 5, 1992, the Superintendent of Pensions appointed Ernst & Young Inc. Administrator of the Plan; and
6. On March 5, 1997, the Superintendent of Pensions issued an order that the plan be wound up effective May 25, 1991; and
7. On December 2, 1999, the Superintendent of Financial Services approved a wind up report filed by the Administrator for the Plan; and
8. On September 21, 2001, the Administrator filed an application for a declaration that the Guarantee Fund applies to the Plan, and for an allocation of funds in the amount of \$136,800 from the Guarantee Fund determined as of October 31, 2001; and

9. On November 26, 2001, the Administrator filed a supplement to the wind up report disclosing a revised claim against the Guarantee Fund as of October 31, 2001 of \$148,300; and
 10. Additional liabilities are to be included in the allocation amount requested from the Guarantee Fund in respect of benefits under the Plan for which the employer's consent is deemed to have been given in accordance with subsection 74(7) of the Act;
 11. On August 16, 2004, the Deputy Superintendent, Pensions, issued a Notice of Proposal to Make a Declaration that the Guarantee Fund applies to the Plan; and
 12. As of October 4, 2004, no request for a hearing before the Financial Services Tribunal has been made in respect of the Notice of Proposal to Make the Declaration;
4. The Administrator is of the view that there are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be met.

DATED at North York, Ontario
this 7th day of October, 2004.

Tom Golfetto
Director, Pension Plans Branch

NOW THEREFORE TAKE NOTICE I
declare pursuant to sections 83 and 89 of
the Act that the Guarantee Fund applies
to the Plan for the following reasons:

**REASONS FOR THE PROPOSED
DECLARATION:**

1. The Employer, Forest City International Trucks Ltd., was adjudged bankrupt on May 23, 1991 or soon thereafter.
2. The Administrator has estimated the deficit in the plan as of as at October 31, 2001 to be \$151,200 and the claim against the Guarantee Fund to be \$148,300.
3. The Trustee in Bankruptcy has been discharged.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
Make a Declaration under section 83 of the
Act relating to the **Employees' Retirement
Plan of Hoskins Alloys of Canada Limited,**
Registration Number 557868 (the "Plan");

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway
Suite 1100
Mississauga ON L4Z 3M3

Attention: Mr. Tony Karkheck
Human Resource Services
Appointed Administrator

AND TO: **Hoskins Manufacturing Co.**
39500 High Pointe Boulevard,
Suite 300
Novi MI 48375

Attention: Phillip Varvatos
Controller
Employer

DECLARATION

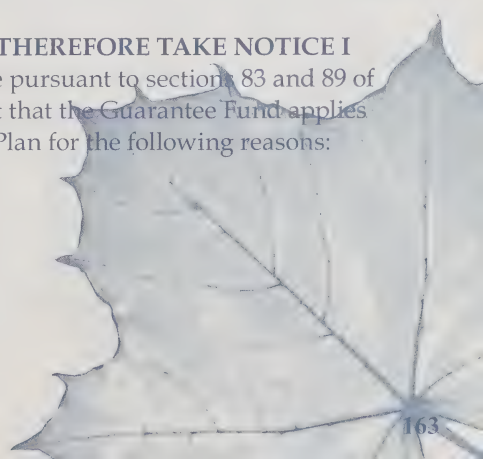
WHEREAS:

1. Employees' Retirement Plan of Hoskins Alloys of Canada Limited is registered under the Act as Registration Number 557868 (the "Plan"); and
2. The Plan provides defined benefits that are not exempt from the application of the

3. Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
4. The Superintendent of Financial Services appointed PricewaterhouseCoopers Inc. Administrator of the Plan on May 7, 2004; and
5. On May 17, 2004, the Administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan; and
6. The Administrator has indicated that the employer had failed to remit required contributions to the Plan of \$117,880; and
7. The Administrator has indicated that the wind up funded ratio of the Plan is expected to be significantly lower than 80%; and
8. The Administrator is of the opinion that there are reasonable and probable grounds to conclude that the funding requirements of the Act cannot be met;
9. On August 27, 2004, the Deputy Superintendent, Pensions, issued a Notice of Proposal to Make a Declaration that the Guarantee Fund applies to the Plan; and
10. As of October 6, 2004, no request for a hearing before the Financial Services Tribunal has been made in respect of the notice of proposal to make the declaration;

NOW THEREFORE TAKE NOTICE I

declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons:



REASONS FOR THE PROPOSED DECLARATION:

1. The employer, Hoskins Alloys of Canada Limited, no longer exists.
2. The former Administrator of the Plan, Hoskins Manufacturing Co., the parent company of the Employer, cannot be located.
3. The Administrator has estimated the wind up funded ratio of the Plan to be significantly less than 80%.
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.

DATED at North York, Ontario
this 12th day of October, 2004.

Tom Golfetto
Director, Pension Plans Branch





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the “Act”);

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Make a Declaration under section 83
of the Act relating to the **Pension Plan
for Employees of Mimik Industries
Inc., Registration Number 287490;**

TO: **Mimik Industries Inc.**
131 Sheldon Drive, Units 12 - 13
Cambridge ON N1R 6S2

Attention: Mr. Robert N. Fraser
Employer

AND TO: **Cowan Wright Limited**
100 Regina Street South,
Suite 270
P.O. Box 96
Waterloo ON N2J 3Z8

Attention: **Mr. Timothy**
Lawrence, F.S.A., F.C.I.A.
Principal
Administrator

DECLARATION

WHEREAS:

1. The Pension Plan for Employees of Mimik Industries Inc.(the “Plan”), is registered under the Act as Registration Number 287490; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund

- (the “Guarantee Fund”) by the Act or the regulations made thereunder; and
3. The Plan was wound up by the employer effective September 13, 1996 with insufficient assets to pay out the wind up benefit entitlements of the Plan members and former members; and
4. The wind up proposals filed by the Employer were approved by the Superintendent of Financial Services on March 3, 1999, noting the intention of the Employer to fund the deficit in accordance with section 75 of the Act, and restricting the distribution of wind up benefits pending filing of a report under section 32 of the regulations to the Act showing no further part of the deficit to be funded; and
5. The Employer failed to comply with the funding requirements of section 75 of the Act, and did not comply with a court probation order issued in 1997 establishing a schedule of payments to be followed by the Employer for liquidating outstanding employer contributions; and
6. The Employer failed to comply with a subsequent agreement made with the Financial Services Commission of Ontario on or about May 2000 to follow a modified schedule of payments to be made into the Plan to liquidate the balance of the outstanding Employer contributions; and
7. A charge against the Employer was brought by Financial Services Commission of Ontario under section 75 of the Act for failing to make payment to the Plan in the manner prescribed under the Act; and
8. Sometime on or soon after March 22, 2004, the Employer ceased operations and closed its doors; and

9. The Employer's assets have been sold off to pay creditors; and
10. Pursuant to the charges brought by Financial Services Commission of Ontario, in a joint submission at trial on May 11, 2004, which was accepted by the Ontario Court of Justice, the Employer entered a guilty plea to the charges and was fined \$3,420. The court at the same time issued an order under ss.110(4) of the Act requiring the Employer to pay the \$342,000 then estimated as being owed to the Plan; and
11. The Financial Services Commission of Ontario will arrange to have the above restitution order converted to a judgement of the Superior Court of Justice as soon as possible. The Superintendent will then have the option of attempting to recover from the Employer the value of any payments made from the Guarantee Fund, although it is not expected that the firm will have any unsecured assets available; and
12. The Superintendent of Financial Services has a lien and charge on the assets of the Employer in accordance with section 86 of the Act in respect of any payment made out of the Guarantee Fund to the Plan; and
13. For purposes of section 33 of the regulations to the Act, the proposed declaration will require that the wind up funded ratio and the liability for benefits guaranteed by the Guarantee Fund be calculated as of September 13, 2000; and
14. On August 24, 2004, the Deputy Superintendent issued a notice of proposal to make a declaration that the Guarantee Fund applies to the Plan; and

15. As of October 12, 2004, no request for a hearing before the Financial Services Tribunal has been received.

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

REASONS FOR THE DECLARATION:

1. There are currently insufficient assets in the Plan to provide for the benefit entitlements of the members on wind up. An actuarial evaluation of the Plan as at September 13, 2000 identified a deficit of \$100,954 in the Plan against which the Employer has made no further payment, and a funded ratio for the Plan of 86.3%.
2. The deficit in the Plan as at May 1, 2004 has been estimated by the administrator to be \$378,997 and the claim against the Guarantee Fund is estimated to be \$359,056.
3. There currently exist reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.

DATED at North York, Ontario,
this 14th day of October, 2004.

Tom Golfetto
Director, Pension Plans Branch

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P. 8, as amended (the "Act");

AND IN THE MATTER OF a Proposal
by the Superintendent of Financial
Services to Make a Declaration under
Section 83 of the Act respecting the
**Pension Plan for Hourly Employees of
Fantom Technologies Inc., Registration
Number 0348995 (the "Pension Plan");**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: David R. Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **Fantom Technologies Inc.**
PO Box 1004
Welland ON L3B 5S1

Attention: Norm Wotherspoon
Treasurer
Employer

AND TO: **PricewaterhouseCoopers Inc.**
145 King Street West
Toronto ON M5H 1V8

Attention: Catherine Hristow
Vice President
**Interim Receiver and Trustee
in Bankruptcy for
Fantom Technologies Inc**

AND TO: **The United Steelworkers
of America Local 6444,
District 6**
234 Eglinton Avenue East
Toronto ON M4P 1K5

Attention: Robert Heally
and Brian Greenaway
Union

DECLARATION

WHEREAS:

1. The Pension Plan for Hourly Employees of Fantom Technologies Inc., Registration Number 0348995 (the "Pension Plan"), is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Pension Plan was wound up in full for those members who ceased to be employed effective between November 20, 2000 and October 5, 2001; and
4. The Superintendent of Pensions initially appointed Deloitte & Touche Inc. as the Administrator (the "Administrator") of the Pension Plan on April 25, 2002 and on July 11, 2002, appointed Morneau Sobeco as Administrator to replace Deloitte & Touche; and
5. On August 16, 2004, the Deputy Superintendent, Pensions, issued a Notice

- of Proposal dated August 16, 2004, to Make a Declaration that the Guarantee Fund applies to the Pension Plan; and
6. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection
 7. 89 (6) of the Act, has been received.

NOW THEREFORE TAKE NOTICE I

declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most recent actuarial valuation performed as at December 31, 1999, had a solvency deficiency of \$952,000 and a transfer ratio of 80%. Further, the Administrator had its actuary performed a preliminary valuation as at March 22, 2002, and the results of that review determined that the wind up funded ratio had deteriorated from 80% as at December 31, 1999, to approximately 59% as at March 22, 2002, and that the wind up deficit had increased to \$2,727,000 from \$952,000.
2. On October 25, 2001, Fantom Technologies Inc.'s request to obtain creditor protection for a temporary period under the *Companies' Creditors Arrangement Act* ("CCAA") was approved by an Order of the Ontario Superior Court of Justice. The Court appointed PricewaterhouseCoopers Inc. as the Monitor, as required under the CCAA proceedings and also appointed PricewaterhouseCoopers Inc. as Interim Receiver of the Fantom Technologies Inc.
3. On March 22, 2002, the Court issued an Order terminating the CCAA proceedings and discharged PricewaterhouseCoopers

- Inc. as Monitor but directed it to continue in its role as Interim Receiver. On the same day, PricewaterhouseCoopers Inc. was appointed Trustee in Bankruptcy.
4. The Administrator has filed a proof of claim in respect of the estimated \$2,727,000, deficit with the Trustee in Bankruptcy. The Administrator advises that the Trustee in Bankruptcy has not completed their administration of the bankruptcy but have advised them that it is unlikely there will be any proceeds from the bankrupt estate of Fantom Technologies Inc. to make payments to the Pension Plan.
 5. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

DATED at North York, Ontario, this 22nd day of October, 2004.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P. 8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to Make a Declaration under Section 83 of
the Act respecting the **Pension Plan for
Employees of General Publishing Co.
Limited, Registration Number 0563148;**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David R. Kearney
Senior Consultant
**Administrator
of the Pension Plan**

AND TO: **General
Publishing Co. Limited**
895 Don Mills Road
400-2 Park Centre
Toronto ON M3C 1W3

Attention: Mary Hailey
Manager Human Resources
Employer

AND TO: **Deloitte & Touche Inc.**
79 Wellington Street West
Maritime Life Tower
Toronto Dominion Centre,
P.O. Box 29
Toronto ON M5K 1B9

Attention: Paul Denton
Director, Financial
Advisory Services
**Trustee in Bankruptcy
for General
Publishing Co. Limited**

AND TO: **Graphic
Communications
International
Union Local 500M**
324 Prince Edward Drive
Suite 10
Toronto ON M8Y 3Z5

Attention: John Bickford
Office Manager
Union

DECLARATION

WHEREAS:

1. The Pension Plan for Employees of General Publishing Co. Limited, Registration Number 0563148 (the "Pension Plan"), is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of
3. the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
4. The Pension Plan was wound up in full for those members who ceased to be employed effective between April 30, 2002 and August 19, 2002; and

5. The Superintendent of Financial Services Commission appointed Morneau Sobeco as the Administrator (the "Administrator") of the Pension Plan on September 5, 2002.
 6. On August 16, 2004, the Deputy Superintendent, Pensions, issued a Notice of Proposal dated August 16, 2004, to Make a Declaration that the Guarantee Fund applies to the Pension Plan; and
 7. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection
 8. 89 (6) of the Act, has been received.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

DATED at North York, Ontario, this 22nd day of October, 2004.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

NOW THEREFORE TAKE NOTICE I
declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most recent Actuarial Valuation Report for this Pension Plan was produced by the plan actuary as of June 30, 2001. The Pension Plan was reported to have a 96.4% transfer ratio at that date and a solvency deficiency of \$75,000.

Following its appointment, the Administrator requested the actuary prepare a preliminary estimate of the wind up liabilities of the Pension Plan as of August 19, 2002. The actuary estimated the wind up funded ratio as 72.6% and a solvency deficiency of \$723,800.

2. Deloitte & Touche Inc. was appointed Trustee in Bankruptcy on August 20, 2002.
3. The Administrator has filed a proof of claim with the Trustee in Bankruptcy in respect of the deficiencies in the Pension

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P. 8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to Make a Declaration under Section 83 of
the Act respecting the **Pension Plan for
Hourly Employees of Maksteel Hamilton
- Division of Maksteel Inc., Registration
Number 1059146 (the "Pension Plan")**;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Pauline Frenette
Associate Consultant
**Administrator
of the Pension Plan**

AND TO: **Maksteel Inc.**
7615 Torbram Road
Mississauga ON L4T 4A8

Attention: Jerry Sauer
Manager
Human Resources
Employer

AND TO: **Ernst & Young Inc.**
222 Bay Street, 16th Floor
Toronto-Dominion Centre
Toronto ON M5K 1J7

Attention: Sharon Hamilton
Manager
**Interim Receiver
for Maksteel Inc.**

AND TO: **United Steelworkers
of America Local 5958**
1031 Barton Street East
Hamilton ON L8L 3E3

Attention: Bryan Adamczyk
Staff Representative
Union

DECLARATION

WHEREAS:

1. The Pension Plan is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Pension Plan was wound up in full for those members who ceased to be employed effective between July 10, 2001 and December 14, 2001; and
4. The Superintendent initially appointed Arthur Andersen Inc. as the administrator (the "Administrator") of the Pension Plan on April 18, 2002 and on July 10, 2002, appointed Morneau Sobeco as Administrator to replace Deloitte & Touche

5. On September 3, 2004, the Deputy Superintendent, Pensions issued a Notice of Proposal dated September 3, 2004, to Make a Declaration that the Guarantee Fund applies to the Pension Plan; and
6. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the Act, has been received.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

DATED at North York, Ontario,
this 27th day of October, 2004.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

NOW THEREFORE TAKE NOTICE I
declare pursuant to sections 83 and 89 of
the Act that the Guarantee Fund applies to
the Pension Plan for the following reasons:

1. The most-recent actuarial report on the Pension Plan was the Supplemental Wind-Up Actuarial Report prepared as of July 31, 2001 by BCM Actuarial Consulting Ltd. That report showed a wind up deficiency of \$7,400 as at July 31, 2001. The Administrator had its actuary prepare a preliminary valuation of the Pension Plan as at December 31, 2001. The result of that review determined that the wind up deficiency had deteriorated to approximately \$283,075, and an estimated-funded ratio of 75% as at December 31, 2001.
2. Ernst & Young was appointed Interim Receiver of Maksteel Inc. on January 7, 2002.
3. The Administrator has advised that they have filed a Proof of Claim with the Interim Receiver in the amount of \$164,880 but was advised by the Interim Receiver that there are no funds available for distribution to unsecured creditors.

Allocations of Money from the Pension Benefits Guarantee Fund

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Declaration
by the Superintendent of Financial Services
under section 83 of the Act relating to
the **Revised Pension Plan for Salaried
Employees of Marsh Engineering Limited**,
Registration Number 276030 ("the Plan");

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Mr. David R. Kearney
Appointed Plan
Administrator
("Administrator")

AND TO: **Marsh Engineering Limited**
118 West Street
Port Colborne ON L3K 4C9

Attention: Charlotte Watson
Payroll Administrator
Employer

AND TO: **Marsh Instrumentation Inc.**
1016-C Sutton Drive
Burlington ON L7L 6B8

Attention: Ronald Bake
President
Participating Employer

AND TO: **Deloitte & Touche Inc.**
181 Bay Street, Suite 1400
BCE Place
Toronto ON M5J 2V1

Attention: Robert Paul
Partner
Trustee in Bankruptcy

ALLOCATION

WHEREAS on the 27th day of August, 2003,
the Superintendent of Financial Services
declared, pursuant to sections 83 and 85 of the
Act, that the Pension Benefits Guarantee fund
(the "Guarantee Fund") applies to the Plan,

NOW THEREFORE I shall allocate from
the Guarantee Fund and pay to the Plan,
pursuant to subsection 34(7) of R.S.O. 1990,
eg. 909, under the Act (the "Regulation"),
an amount not to exceed \$1,896,600 to
provide, together with the Ontario assets
of the Plan, for the benefits determined in
accordance with section 34 of the Regulation,
and to pay the reasonable administration
costs to wind up the Plan. Any money
allocated from the Guarantee Fund but not
required to provide such benefits or costs
shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario,
this 16th day of July, 2004.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Declaration
by the Superintendent of Financial Services
under section 83 of the Act relating to the
**Pension Plan for Employees of Moyer Vico
Corp., Registration Number 465070;**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Ms. Pauline Frenette
Associate Consultant
Administrator

AND TO: **Moyer Vico Corp.**
25 Milvan Drive
Weston ON M9L 1Z1

Attention: Adam Okhai
President & CEO
Employer

AND TO: **Mintz and Partners Limited**
1446 Don Mills Road, Suite 100
Don Mills ON M3B 3N6

Attention: Daniel R. Weisz
Senior Vice-President
Trustee in Bankruptcy

AND TO: **Industrial Wood & Allied
Workers of Canada, Local 1-700**
2088 Weston Road
Toronto ON M9N 1X4

Attention: Ron Diotte
President, Local 1-700
**Union representative
for the members of the Plan**

ALLOCATION

WHEREAS on the 18th day of June, 2004, the
Superintendent of Financial Services declared,
pursuant to sections 83 and 85 of the Act,
that the Pension Benefits Guarantee fund
(the "Guarantee Fund") applies to the Plan,

NOW THEREFORE I shall allocate from
the Guarantee Fund and pay to the Plan,
pursuant to subsection 34(7) of R.S.O. 1990.
eg. 909, under the Act (the "Regulation"), an
amount not to exceed \$351,300 to provide,
together with the Ontario assets of the Plan,
for the benefits determined in accordance
with section 34 of the Regulation, and to
pay the reasonable administration costs to
wind up the Plan. Any money allocated
from the Guarantee Fund but not required
to provide such benefits or costs shall
be returned to the Guarantee Fund.

DATED at Toronto, Ontario,
this 16th day of July, 2004.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P. 8, as amended by (the “Act”);

AND IN THE MATTER OF a Proposal
by the Superintendent of Financial
Services to Make a Declaration under
Section 83 of the Act respecting the
**Pension Plan for the Employees of
United Tire & Rubber Co. Limited
Represented by United Steel Workers
of America, Local 3950 (the “Pension
Plan”), Registration Number 0424671;**

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway
Suite 1100
Mississauga ON M5G 1G8

Attention: Lois J. Reyes
Manager
**Administrator
of the Pension Plan**

ALLOCATION

WHEREAS on May 25, 2004, the Director,
Pension Plans Branch, declared, pursuant to
sections 83 and 89 of the Act, that the Pension
Benefits Guarantee Fund (the “Guarantee
Fund”) applies to the Pension Plan;

NOW THEREFORE I shall allocate from
the Guarantee Fund and pay to the Pension
Plan, pursuant to subsection 34(7) of
R.R.O. 1990, Reg. 909, under the Act (the
“Regulation”), an amount not to exceed
\$680,630 which together with the Ontario
assets of the Pension Plan, will provide
for the benefits determined in accordance

with section 34 of the Regulation. Any
money allocated from the Guarantee Fund
but not required to provide such benefits
shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario,
this 11th day of August, 2004.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended, (the "Act");

AND IN THE MATTER OF a
Declaration by the Superintendent
of Financial Services under
Section 83 of the Act respecting the
**Pension Plan for Unionized Employees
of Northern Globe Building Materials
(Thorold Division), Registration Number
680405 (formerly C-104311) (the "Plan");**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Mr. David R. Kearney
Senior Consultant
**Appointed
Administrator of the Plan**

AND TO: **Communications, Energy and
Paper Workers
Union of Canada**
5890 Aspen Court
Niagara Falls ON L2G 7V3

Attention: Michael Lambert
National Representative
**Union Representative
for the members of the Plan**

Pension Benefits Guarantee Fund (the
"Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from
the Guarantee Fund and pay to the Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the "Regulation"), an
amount not to exceed \$593,100 determined as
of October 1, 2004 to provide, together with
the Ontario assets of the Plan, for the benefits
determined in accordance with section 34
of the Regulation, and to pay the reasonable
administration costs to wind up the Plan. Any
money allocated from the Guarantee Fund
but not required to provide such benefits or
costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario,
this 14th day of October, 2004.

K. David Gordon

Deputy Superintendent, Pensions

ALLOCATION

WHEREAS on the 25th day of August,
2004, a declaration was made, pursuant
to sections 83 and 89 of the Act, that the



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended, (the “Act”);

AND IN THE MATTER OF a Declaration
by the Superintendent of Financial Services
under Section 83 of the Act, respecting
the **Retirement Plan for the Hourly
Employees of Superior Machine and
Tool (Chatham) Limited, Registration
Number 0327601 (the “Plan”);**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Mr. David R. Kearney
Senior Consultant
**Appointed
Administrator of the Plan**

AND TO: **Zwaig Consulting Inc.**
Suite 1560, Exchange Tower
P.O. Box 17, 130 King Street West
Toronto ON M5X 1J5

Attention: Mr. Jeffrey D. Kerbel
**Trustee in Bankruptcy
and Interim Receiver
and Manager**

ALLOCATION

WHEREAS on the 16th day of January,
2002, a declaration was made, pursuant
to sections 83 and 89 of the Act, that the
Pension Benefits Guarantee Fund (the
“Guarantee Fund”) applies to the Plan;

NOW THEREFORE I shall allocate from
the Guarantee Fund and pay to the Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the “Regulation”),
an amount not to exceed \$600,648 to provide,
together with the Ontario assets of the Plan,
for the benefits determined in accordance
with section 34 of the Regulation, and to
pay the reasonable administration costs to
wind up the Plan. Any money allocated
from the Guarantee Fund but not required
to provide such benefits or costs shall
be returned to the Guarantee Fund.

DATED at North York, Ontario,
this 14th day of October, 2004.

K. David Gordon

Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P. 8, as amended by (the "Act");

but not required to provide such benefits
shall be returned to the Guarantee Fund.

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to Make a Declaration under Section 83
of the Act, respecting the **Retirement
Plan for the Employees of Alloy Wheels
International (Canada) Ltd., Registration
Number 1036029 (the Pension Plan);**

DATED at Toronto, Ontario, this 29th
day of October, 2004.

K. David Gordon
Deputy Superintendent, Pensions

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: David Kearney
Senior Consultant
**Administrator
of the Pension Plan**

ALLOCATION

WHEREAS on August 13, 2004, the Director,
Pension Plans Branch declared, pursuant to
sections 83 and 89 of the Act, that the Pension
Benefits Guarantee Fund (the "Guarantee
Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from
the Guarantee Fund and pay to the Pension
Plan, pursuant to subsection 34(7) of
R.R.O. 1990, Reg. 909, under the Act (the
"Regulation"), an amount not to exceed
\$5,475,100, which together with the Ontario
assets of the Pension Plan, will provide
for the benefits determined in accordance
with section 34 of the Regulation. Any
money allocated from the Guarantee Fund

FINACIAL SERVICES TRIBUNAL ACTIVITIES

Appointments of Financial Services Tribunal Members

<u>Name and O.C.</u>	<u>Effective Appointment Date</u>	<u>Expiry Date</u>
McNairn, Colin (Chair)		
O.C. 1518/2004	August 11, 2004	August 10, 2006
O.C. 1192/2004	June 9, 2004	September 8, 2004
O.C. 1623/2001	June 20, 2001	June 19, 2004
O.C. 1809/98	July 8, 1998	July 7, 2001
Corbett, Anne (Vice-Chair)		
O.C. 1519/2004	August 11, 2004	August 10, 2006
O.C. 1193/2004	June 9, 2004	September 8, 2004
O.C. 1438/2001	June 20, 2001	June 19, 2004
Ashe, Kevin		
O.C. 1510/2002	September 26, 2002	September 25, 2005
Bharmal, Shiraz Y.M.		
O.C. 1511/2002	September 9, 2002	September 8, 2005
Brown, Martin J. K.		
O.C. 1522/2004	August 11, 2004	August 10, 2006
Erllichman, Louis		
O.C. 439/2002	January 23, 2002	January 22, 2005**
O.C. 2527/98	December 9, 1998	December 8, 2001
O.C. 1592/98	June 17, 1998	December 16, 1998
Gavin, Heather		
O.C. 440/2002	January 23, 2002	January 22, 2005**
O.C. 11/99	January 13, 1999	January 12, 2002
Holden, Florence A.		
O.C. 1523/2004	August 11, 2004	August 10, 2006
Litner, Paul W.		
O.C. 1512/2002	September 9, 2002	September 8, 2005
Scane, Ralph Edward		
O.C. 1520/2004	August 11, 2004	August 10, 2006
Short, David A.		
O.C. 2118/2001	October 24, 2001	October 23, 2004
O.C. 2095/2004	November 3, 2004	November 2, 2006
Solursh, John M.		
O.C. 1521/2004	August 11, 2004	August 10, 2006

** or on the day FSCO/OSC merges, if earlier.

Pension Hearings Before the Financial Services Tribunal

Revised Retirement Plan for Employees of the Allen-Bradley Division of Rockwell International of Canada (now the Pension Plan for Employees of Rockwell Automation Canada Inc.), Registration Number 321554, and the Pension Plan for Salaried and Management Employees of Reliance Electric Limited, Registration Number 292946, FST File Number P0051-1999;

On May 18, 1999, members of the Reliance Plan, requested a hearing regarding a decision of the Director of Pension Plans Branch of the Financial Services Commission, by delegated authority from the Superintendent of Financial Services, dated March 20, 1999, with respect to the transfer of assets from the Pension Plan for Salaried and Management Employees of Reliance Electric Limited to the Revised Retirement Plan for Employees of the Allen-Bradley Division of Rockwell International of Canada.

On June 2, 1999, an application for party status was filed by Rockwell Automation Canada Inc.

At the pre-hearing conference on July 6, 1999 full party status was granted. The matter was adjourned sine die as the Applicants indicated that an application would be made to the Superintendent requesting a wind up of the Reliance Plan and all parties agreed that it would be premature to proceed in this matter until the Superintendent has made a decision respecting the request for wind up.

The pre-hearing conference is scheduled to resume on January 20, 2005.

The Retirement Plan for Salaried Employees (Consumer Foods) of General Mills Canada, Inc., Registration Number 342042, FST File Number P0058-1999;

On June 30, 1999, General Mills Canada Inc. requested a hearing regarding the Superintendent's Notice of Proposal dated May 19, 1999 refusing to approve a partial wind up report. The grounds for the refusal were: (a) the partial wind up report did not deal with the treatment of surplus on partial wind up; (b) the payment of benefit enhancements on wind up to certain members constituted an inequitable distribution of surplus, and an indirect payment of surplus to the employer without following the statutory requirements for the payment of surplus to the employer; and (c) proper notice of the partial wind up was not provided to the affected members, and the partial wind up report did not allow the affected members who were entitled to an immediate pension and who receive a "special pension upgrade" to commute their pension benefits.

On May 12, 2000, at the request of the parties, the matter was adjourned sine die pending the outcome of the *Monsanto* case. On July 29, 2004, the Supreme Court of Canada released its decision in the *Monsanto* case. On September 2, 2004, the Superintendent requested a pre-hearing conference be scheduled.



The pre-hearing conference scheduled for December 8, 2004 was adjourned sine die at the request of the parties on October 27, 2004, due to settlement discussions.

Gerald Menard; Public Service Pension Plan, Registration Number 208777 and the Ontario Municipal Employees' Retirement System "OMERS", Registration Number 345983, FST File Number P0071-1999;

A request for hearing was filed on December 16, 1999, by Mr. Gerald Menard in respect of a complaint relating to the Public Service Pension Plan Registration Number 208777 and the Ontario Municipal Employees' Retirement System "OMERS", Registration Number 345983.

At a pre-hearing conference on February 21, 2000, the matter was adjourned sine die so that the Applicant could request the Superintendent to make a decision respecting the relief claimed by the Applicant.

On October 15, 2004, the request for hearing was withdrawn.

Consumers' Gas Ltd.; Pension Plan for Employees of the Consumers' Gas Company Ltd. And Designated Affiliated, Associated and Subsidiary Companies (now the Pension Plan for Employees of Enbridge Gas Distribution Inc. and Affiliates), Registration Number 242016, FST File Number P0076-1999;

On August 19, 1999, the Superintendent issued a Notice of Proposal to refuse to

approve a partial wind up report filed by the Consumers' Gas Company Ltd. with respect to the sale of the Telesis Oil and Gas Division of Consumers' Gas. The grounds for the refusal were: (a) the report did not provide for the distribution of the surplus attributable to the partial wind up group; (b) the report did not provide "grow in" to indexation benefits for members who had achieved 55 points under subsection 74(1) of the *Pension Benefits Act* (rather, it provided these benefits only to members who were 55 years old); and (c) the report did not include certain bonuses paid to Telesis employees in the calculation of earnings in determining the commuted value of these employees' pensions.

A pre-hearing conference was held on November 15, 1999, December 2, 1999, and April 3, 2000, during which time a Group of Former Employees of Telesis was added as a party. The pre-hearing reconvened on June 27, 2000 and the matter was adjourned sine die pending the outcome of the *Monsanto* case.

On July 29, 2004, the Supreme Court of Canada released its decision in the *Monsanto* case. On September 2, 2004, the Superintendent requested a pre-hearing conference be scheduled. At a pre-hearing conference on October 13, 2004, the parties executed Minutes of Settlement, which were made an Order of the Tribunal. The Order, dated October 19, 2004, is published in this bulletin on page 207.

Schering-Plough Healthcare Products Canada Inc. Salaried Employees'

Pension Plan, Registration Number 297903, FST File Number P0085-1999;

On November 10, 1999, Schering-Plough Healthcare Products Canada Inc. filed a request for hearing regarding the Superintendent's Notice of Proposal dated October 14, 1999, ordering Schering-Plough Healthcare Products Canada Inc. to amend the partial wind up report with respect to its salaried pension plan as at August 31, 1996, so that the surplus attributable to the partial wind up group would be distributed.

On March 27, 2000 a number of affected plan members filed an application for party status. The matter was adjourned sine die on May 10, 2000 pending the outcome of the *Monsanto* case. On July 29, 2004, the Supreme Court of Canada released its decision in the *Monsanto* case. On September 2, 2004, the Superintendent requested a pre-hearing conference be scheduled.

A pre-hearing conference is scheduled for December 15, 2004.

Cooper Industries (Canada) Inc., Retirement Plan for Salaried Employees of Cooper Canada - Plan A Registration Number 0240622, FST File P0156-2001;

On April 17, 2001, Cooper Industries (Canada) Inc. requested a hearing with respect to the Superintendent's Notice of Proposal dated March 8, 2001, to Refuse to Approve a Partial Wind Up Report, prepared in November 1999 in relation to the partial wind up of the Retirement Plan for Salaried Employees

of Cooper Canada - Plan A, Registration Number 0240622, as at March 30, 1992, in relation to employees at the Port Hope location of Cooper Industries (Canada) Inc., and to make an Order requiring Cooper Industries (Canada) Inc. to refrain from using and to preserve for distribution that portion of the surplus of the Plan attributable to the Port Hope location. The basis for the Notice of Proposal was that the Partial Wind Up Report proposed that the surplus assets of the Plan attributable to the Port Hope location be retained for continuing application toward future current service contributions for the Plan's continuing membership and, therefore, failed to provide for distribution of the Port Hope surplus assets.

On May 15, 2001, Messrs. Ray Mills and Larry Battersby applied for party status on behalf of Plan members and former Plan members employed at the Port Hope plant and beneficiaries of same.

A pre-hearing conference was held on September 5, 2001 at which Messrs. Mills and Battersby were joined as parties. The pre-hearing conference for May 27, 2002 was adjourned to a date to be set at the request of the parties, pending the outcome of the *Monsanto* case.

On July 29, 2004, the Supreme Court of Canada released its decision in the *Monsanto* case. On September 2, 2004, the Superintendent requested a pre-hearing conference be scheduled. The pre-hearing conference, scheduled for November 1, 2004,

was adjourned on consent of the parties to allow for settlement discussions.

Marcel Brousseau, Electrical Industry of Ottawa Pension Plan, Registration Number 0586396, FST File Number P0183-2002;

On February 20, 2002, Marcel Brousseau, a member of the Plan, requested a hearing regarding the Superintendent's Notice of Proposal dated January 22, 2002, to refuse to make an order in respect of the Plan Administrator's determination, pursuant to section 87 of the *Pension Benefits Act*, of Mr. Brousseau's pensionable service under the terms of the Plan.

A pre-hearing conference was held on August 27, 2002. At the pre-hearing conference, the Superintendent raised a jurisdictional issue which it was agreed would be dealt with through a motion. The parties agreed that the issue on the motion was whether, given the November 19, 2001 decision of the Superior Court of Justice in *Board of Trustees of the Electrical Industry of Ottawa Pension Plan v. Cybulski*, Court File No. 01-CV-18268, the Tribunal had jurisdiction to proceed in the circumstances of this case.

At the motion hearing on November 29, 2002, the Superintendent argued that the Tribunal did not have jurisdiction to hear the Applicant's request because the issue that is the subject of the Applicant's request for hearing was decided by the Ontario Superior Court of Justice. The Superintendent therefore argued that the doctrine of issue estoppel applies and precludes the Tribunal

from holding a hearing. In its majority reasons dated October 27, 2003, the Tribunal determined that the doctrine of issue estoppel does not apply and that even if it did, this was a proper case for the exercise of the Tribunal's discretion to refuse to apply that doctrine. The Reasons for Decision dated October 27, 2003, were published in Volume 13, Issue 1 of the Pension Bulletin.

At a resumption of the pre-hearing conference on November 12, 2003, hearing dates for February 2-3, 2004 were agreed to.

On December 17, 2003, an application for party status was filed by the Board of Trustees, Electrical Industry of Ottawa Pension Plan. At a resumption of the pre-hearing conference on January 12, 2004, full party status was granted, and the hearing dates were changed. At the hearing on March 30, 2004, the panel reserved its decision.

In its Reasons dated October 22, 2004, the Superintendent was ordered to refrain from issuing the Notice of Proposal, and the Trustees were directed to provide credited service to Mr. Brousseau for the first 90 days after his layoff in 1983 (starting from September 12, 1983) and for two weeks plus 90 days in 1984. The Reasons dated October 22, 2004, are published in this bulletin on page 214.

Elaine Nolan, George Phillips, Elisabeth Ruccia, Kenneth R. Fuller, Paul Carter, R.A. Varney and Bill Fitz being the members of the DCA Employees Pension Committee, Pension Plan for the Employees of Kerry

**(Canada) Inc., Registration Number
238915, FST File Number P0192-2002;**

On May 27, 2002, William Fitz on behalf of the DCA Employees Pension Committee, requested a hearing regarding the Superintendent's Notice of Proposal, dated April 22, 2002, proposing to refuse to make an order that:

- the Plan be wound up, effective December 31, 1994;
- Kerry (Canada) Inc. pay to the pension fund (the "Fund") of the Plan all employer contributions for which a contribution holiday was taken since January 1, 1985, together with income that would have been earned by the Fund if those contributions had been made; and
- registration of the Revised and Restated Plan Text dated January 1, 2000, and all amendments to the Plan included therein, be refused.

On June 5, 2002, Kerry (Canada) Inc. filed an application for party status.

At the pre-hearing conference on October 15, 2002, full party status was granted to Kerry (Canada) Inc. The pre-hearing conference was adjourned to allow the parties to bring certain motions with respect to disclosure.

At the motion hearing on December 6, 2002, three orders for disclosure were issued, one against Kerry (Canada) Inc., one against the DCA Employees Committee and one against the Superintendent.

On January 22, 2003, the pre-hearing conference resumed and was further adjourned to allow a further disclosure motion to be brought by the DCA Employees Pension Committee. The motion was heard on March 27, 2003, at which time it was dismissed.

On June 5, 2003, the pre-hearing conference resumed to deal with the framing of the "partial wind-up issue." The DCA Employees Pension Committee indicated that it would be bringing a motion for an order that would add an issue to or otherwise amend the matters in issue. That motion and another motion by Kerry (Canada) Inc. to amend the "partial wind up issue" were heard on June 25, 2003. At the hearing, the parties agreed on a revised wording of the "partial wind up issue," and it was ordered that the statement of the issues in the proceeding be amended accordingly.

At a resumption of the pre-hearing conference on October 14, 2003, the parties agreed to hearing dates. On March 2-3, 2004, the Tribunal heard the evidence of the witnesses who were put forward in this matter.

On April 8, 2004, the Tribunal heard argument from the parties with respect to the DCA Employees Pension Committee's request that the Tribunal issue reasons for decision concerning the earlier motions for disclosure brought by the Committee. The Tribunal denied the request. The Tribunal also heard argument from the parties concerning the Applicant's reply submissions, in addition to a request that the argument phase of the hearing be adjourned to permit surreply

submissions from the Respondents. The Respondents argued that the Applicant's reply submissions raised new issues and arguments not previously addressed. The request for adjournment was granted to allow the Respondents time to prepare, file and serve surreplies to the Applicant's reply. On June 8 and 9, 2004, the Tribunal heard oral arguments from the parties.

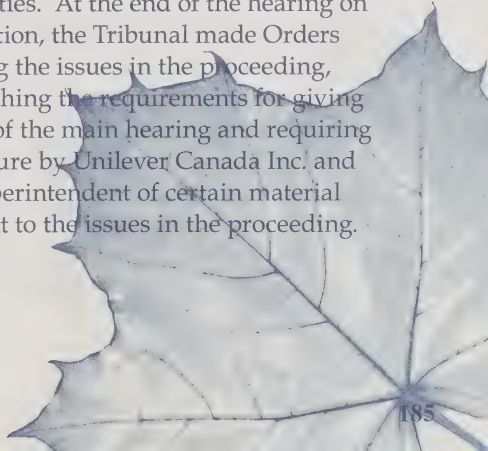
In its Reasons for Decision dated September 1, 2004, the Tribunal ordered the Superintendent to carry out the proposals in its Notice of Proposal except that the Superintendent was ordered to deny registration of the 2000 Plan unless certain amendments were made to preserve the interests of the Plan members who were beneficiaries of the trust in respect of the Fund, failing which the Superintendent was ordered to require Kerry (Canada) to reimburse the Fund for contribution holidays taken in respect of the Plan since January 1, 2000. The Reasons for Decision are published in this bulletin on page 193.

On September 29, 2004, the DCA Employees Pension Committee made a request to the Tribunal for an order of costs against Kerry (Canada) Inc. payable out of the Fund. On October 1, 2004, Kerry (Canada) Inc. made a request to the Tribunal for an order of costs against the DCA Employees Pension Committee. The hearing on the issue of costs is scheduled for December 9, 2004.

Bestfoods Canada Inc., Pension Plan for Salaried Employees of Bestfoods Canada Inc., Registration Number 240358, FST File Number P0222-2003;

On March 24, 2003, Mr. Gerry O'Connor requested a hearing regarding the Superintendent's Notice of Proposal dated February 25, 2003, to refuse to make an order, pursuant to section 69 (1) (d) or (e) of the *Pension Benefits Act*, to wind up, in part, the Pension Plan for Salaried Employees of Bestfoods Canada Inc., Registration Number 240358.

On April 11, 2003, an application for party status was filed by Unilever Canada Inc., the successor to Bestfoods Canada Inc. At the pre-hearing conference on June 25, 2003, full party status was granted to Unilever Canada Inc. The pre-hearing conference was adjourned to allow the parties the opportunity to resolve some preliminary issues and to allow the Applicant to bring a motion, as necessary, with respect to disclosure of documents and notice of hearing. The motion hearing scheduled for September 22, 2003, was rescheduled to November 3, 2003, at the request of the parties. At the end of the hearing on the motion, the Tribunal made Orders framing the issues in the proceeding, establishing the requirements for giving notice of the main hearing and requiring disclosure by Unilever Canada Inc. and the Superintendent of certain material relevant to the issues in the proceeding.



On January 22, 2004, the Tribunal heard argument from the parties on a request by Unilever Canada Inc. for an order separating certain jurisdictional and standing issues for preliminary determination by the Tribunal. That request was denied, the Tribunal confirming its earlier decision to receive any evidence and hear argument on those issues, along with evidence and argument on the other issues, at the main hearing in this proceeding.

On March 2, 2004, the Tribunal granted the parties' request to defer the disclosure date, and adjourn the March 8, 2004 pre-hearing conference return date, as the parties are engaged in settlement discussions.

On August 6, 2004, the request for hearing was withdrawn.

Boilermakers' National Pension Plan (Canada), Registration Number 0366708, FST File Number P0228-2003

On October 7, 2003, Trustees of the Boilermakers' National Pension Plan (Canada) (the "Plan") requested a hearing regarding the Superintendent's Notice of Proposal dated September 22, 2003. By the terms of the Notice of Proposal, the Superintendent proposes to:

revoke or refuse to register certain amendments to the Plan which provide that a member is deemed not to be retired unless he or she has withdrawn from employment in the construction industry, or to reduce an early retirement benefit for a member who is re-employed by an

employer not participating in the Plan, on the grounds that these amendments impose additional requirements for, or restrictions on the continued receipt of, early retirement benefits in breach of s. 40(2) of the *Pension Benefits Act* (the "Act");

- direct the trustees of the Plan to cease requiring members who are retiring early to confirm that they will cease working in the boilermaker industry, on the grounds that no such requirement is set out in the Plan; and
- refuse registration of a Plan amendment that would allow a plan member to terminate membership in the Plan if contributions were not made on his or her behalf by a participating employer but only if the member withdraws from employment in the construction industry, on the grounds that this qualification would add a further condition to the right to terminate membership in contravention of s. 38(1) of the Act.

The pre-hearing conference was held on December 8, 2003. Hearing dates for the giving of evidence were scheduled on April 19, 20 and 21, 2004, and oral arguments were scheduled to take place on June 14, 2004.

On February 4, 2004, the parties agreed to adjourn the matter sine die pending finalization of the terms of a settlement.

The request for hearing was withdrawn in accordance with Minutes of Settlement dated November 8, 2004.

Melnor Canada Ltd. Retirement Income Plan, Registration Number 449777, FST File Number P0233-2004;

On January 21, 2004, Gardena Canada Ltd. (the "Employer"), requested a hearing regarding the Notice of Proposal dated December 19, 2003 of the Deputy Superintendent, Pensions, to refuse to consent to the application dated March 12, 2002, submitted by the Employer for the payment of surplus on the windup of the Plan to the Employer under subsection 78(1) of the Act.

On February 25, 2004, David Evans, a member of the Plan, filed an application for party status.

On March 5, 2004, applications for party status were filed by Raymond Bamsey, Ernest Burke, Pat Dobson, Leone Douglas, Gloria Dunn, Karen Garvey, Doreen Harding, Connie Heron, James Peter and Patricia Sinden, who are active, deferred vested and retired members of the Plan ("the Ten Members").

On March 19, 2004, Kevin MacRae, a member of the Plan, filed an application for party status.

On March 24, 2004, Liviana Macoretta, a member of the Plan, filed an application for party status, which was subsequently withdrawn on April 20, 2004.

At the pre-hearing conference on May 6, 2004, the Ten Members were granted full party status on consent of all parties. The applications for party status filed by

Kevin MacRae and David Evans were denied as no one was in attendance to speak to the respective applications.

At a settlement conference on July 29, 2004, the parties settled the matter. The request for hearing and Notice of Proposal will be withdrawn once the settlement is fully implemented.

Hugo Jaik, Electrical Industry of Ottawa Pension Plan, Registration Number 0586396, FST File Number P0235-2004;

On February 16, 2004, Hugo Jaik, a former member of the Plan, requested a hearing regarding the Deputy Superintendent, Pensions' Notice of Proposal, dated January 28, 2004, to refuse to make an order requiring the Board of Trustees of the Electrical Industry of Ottawa Pension Plan (the "Board") to recalculate the pension benefits of members, and specifically to recalculate Mr. Jaik's pension benefit, and requiring that the composition of the Board be amended to comply with the terms of the Plan and declaring that the decisions of the Board improperly constituted are invalid.

A pre-hearing conference was held on May 25, 2004. On July 15, 2004, the Board of Trustees of the Electrical Industry of Ottawa Pension Trust Fund filed an application for party status. At a resumption of the pre-hearing conference on July 26, 2004, full party status was granted to the Board of Trustees.

At a settlement conference on August 5, 2004, the parties were unable to settle the

matter. At a resumption of the pre-hearing conference on August 30, 2004, the hearing date of September 27, 2004 was cancelled and rescheduled to November 30, 2004, and was further rescheduled to January 24, 2005.

**Peter Stopyn, Douglas Llewellyn,
United Association of Journeyman
and Apprentices of the Plumbing and
Pipefitting Industry of the United States
and Canada, Local 67, Registration Number
381525; FST File Number P0239-2004;**

On May 13, 2004, Peter Stopyn and Douglas Llewellyn, former members of the Plan, a multi-employer plan, requested a hearing regarding the Deputy Superintendent, Pensions' Notice of Proposal dated April 23, 2004, proposing to refuse to make an order:

- requiring the Trustees of the Plumbing and Pipefitting Workers' Benefit Plans Local 67 (the "Board"), the administrator of the Plan, to refrain from suspending the retirement benefits of former members of the Plan who return to work with a participating employer after the commencement of their retirement benefits;
- requiring the Board to limit the suspension of the retirement benefits of former members of the Plan who return to work with a participating employer after the commencement of retirement benefits to situations where the returning former member works more than 200 hours in any calendar year and not where the returning former member is

paid for more than 200 hours but does not work more than 200 hours; or

- requiring the Trustees to amend the Plan so that the Plan text reflects the requirements listed in paragraphs (a) or (b) above as the case may be.

On July 13, 2004, the Trustees of Local 67, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada Pension Plans filed an application for party status.

On August 10, 2004, Thomas Hand, Albert Creary and Joe Bruno, former members of the Plan, filed applications for party status. On August 19, 2004, John Fischer a former member of the Plan, filed an application for party status.

The pre-hearing conference scheduled for November 23, 2004, was adjourned sine dine at the request of the applicants.

**Constantin Munteanu, Portship
Employees Negotiated Pension
Plan, Registration Number 0393199;
FST File Number P0240-2004;**

On June 10, 2004, Constantin Munteanu a former member of the Plan, requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated April 8, 2004, proposing to refuse to make an Order directing Pascol Engineering, formerly Port Arthur Shipbuilding Company, to make an additional payment from the pension fund for the Portship Employees

Negotiated Pension Plan in respect of Mr. Munteanu's pension benefits or the commuted value of his pension benefits.

The request for hearing was filed outside the 30 day time period set out in subsection 89(6) of the *Pension Benefits Act* (the "Act"). The parties to the proceeding, namely Mr. Munteanu and the Superintendent, and Pascol Engineering were invited to file written representations with the Tribunal directed to the following questions:

- whether the Tribunal has the authority to extend the 30-day time period for making a request for a hearing under s. 89(6) of the Act and,
- if so, whether the Tribunal should exercise that authority in the circumstances of this case.

The parties filed written representations with the Tribunal in November 2004. In its Reasons for Decision dated November 29, 2004, the Tribunal determined that it had the authority to extend the statutory time period and proceeded to grant such an extension as well as an extension of the similar time period under the Tribunal's Rules of Practice and Procedure for filing a formal Request for Hearing. Therefore, a hearing in this matter will now be convened. In the meantime, a pre-hearing conference is being scheduled. The Reasons for Decision dated November 29, 2004, are published in this bulletin on page 219.

**Power Workers' Union, Kinectrics Inc.
Pension Plan, Registration Number
1075787; FST File Number P0242-2002;**

On July 15, 2004, the Power Workers' Union requested a hearing regarding a refusal, evidenced by a letter from the Pension Plan Branch of the Financial Services Commission dated May 28, 2004, to issue an Order under s. 87 of the *Pension Benefits Act* requiring the administrator of the Kinectrics Inc. Pension Plan to take certain action and to refrain from taking other action in order to bring the Plan into compliance with the Act. The Power Workers' Union had requested that the Superintendent issue a Notice of Proposal requiring Kinectrics Inc. to immediately cease taking a contribution holiday, to prepare and file an updated actuarial report, and to commence funding the Plan pursuant to the updated actuarial report. The Pension Plan Branch took the position, in its May 28 letter, that the Plan was being funded in accordance with the latest filed actuarial report and that no new actuarial report was yet due as the filed report did not disclose a funding concern.

On July 23, 2004, Kinectrics Inc filed an application for party status. At a pre-hearing conference on November 15, 2004, the Tribunal was advised that a new financial actuarial report in respect of the Plan had been filed by Kinectrics Inc. showing a surplus in the fund for the Plan. At that pre-hearing conference, full party status was granted to Kinectrics Inc. and the conference was then adjourned, at the request of the parties, to allow for a settlement conference.

A settlement conference was held on November 15, 2004, at which time the parties requested the settlement conference resume again on December 7, 2004.

Mary Sutton and other members and former members, AIG Assurance Canada Pension Plan, Registration Number 0284604; FST File Number P0245-2004

On November 23, 2004, Mary Sutton and other members and former members of the Plan, requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated October 22, 2004, proposing to refuse to make an Order that the Plan be wound up under s. 69(1)(a) of the Act. A pre-hearing conference is being scheduled.

The following cases are adjourned *sine die*:

- **Eaton Yale Limited Pension Plan for Salaried Employees of Cutler-Hammer Canada Operations, Registration Number 440396, FST Number P0117-2000;** At the request of the parties, this matter was adjourned sine die pending the outcome of the *Monsanto* case.
- **Crown Cork & Seal Canada Inc., Registration Numbers 474205, 595371 & 338491, FST File Number P0165-2001;** At a settlement conference on October 30, 2001, the parties agreed to adjourn the matter sine die pending discussions between the parties.
- **James MacKinnon (Labourers' Pension Fund of Central and Eastern Canada), Registration Number 573188, FST File Number P0167-2001;** On July 10, 2002, the hearing dates were adjourned sine die on consent of the parties.
- **Bauer Nike Hockey Inc. Pension Plan for Employees of Bauer Nike Hockey Inc., Registration Number 257337, FST File Number P0189-2002;** At the pre-hearing conference on October 28, 2002, the matter was adjourned sine die pending the outcome of the *Monsanto* case.
- **Slater Steel Inc. Pension Plan for Corporate Employees and Salaried Employees of the Hamilton Specialty Bar Division, Registration Number 308338, FST File Number P0203-2002;** On June 2, 2003, an Order was issued by the Ontario Superior Court of Justice in relation to Slater Steel Inc., pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings. The hearing in this matter originally scheduled for October 8-10, 15-16, 2003, therefore did not proceed.
- **George Polygenis, Public Service Pension Plan, Registration Number 0208777, FST File Number P0204-2002;** On May 29, 2003, the parties consented to adjourn the June 11, 2003 hearing date sine die, pending finalization of a settlement.
- **Slater Stainless Corp. Pension Plan for Slater Stainless Corp. Members of the National Automobile Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), Registration Number 561456, FST File Number P0220-2003;** The pre-hearing conference scheduled for June 16, 2003 did not proceed since an Order was issued on June 2, 2003 by the Ontario Superior Court

of Justice in relation to Slater Stainless Corp., pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings.

- **Slater Stainless Corp. Pension Plan for Slater Stainless Corp. Members of the United Steel Workers of America (Local 7777), Registration Number 561464, FST File Number P0221-2003;** The pre-hearing conference scheduled for June 16, 2003 did not proceed since an Order was issued on June 2, 2003 by the Ontario Superior Court of Justice in relation to Slater Stainless Corp., pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings.
- **Jane Parker Bakery Limited Retirement Plan for Full-time Bargaining Employees, Registration Number 0400325, FST File Number P0224-2003** On September 8, 2003, the parties advised they agreed to proceed with settlement discussions, and requested that the pre-hearing conference scheduled for September 10, 2003, be adjourned to a date to be determined if one becomes necessary.
- **Plumbers Local 463 Pension Plan, Registration Number 0598532, FST File Number P0230-2003** On February 26, 2004, the matter was adjourned sine die pending the outcome of an application, by the Applicant, for judicial review of the Superintendent's Order dated October 6, 2003.
- **Coats Canada Inc., Coats Canada Employees' Pension Plan, Registration Number 288563, FST File Number P0237-2004;** On March 4, 2004, the Applicant requested agreement from the

Superintendent to adjourn this matter sine die pending the outcome of the *Monsanto* case. On March 12, 2004, the Superintendent agreed to the adjournment.



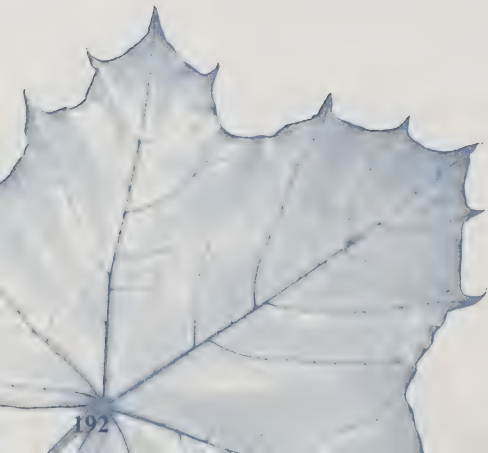
Financial Hardship

Application to the Superintendent of Financial Services for Consent to Withdraw Money from a Locked-in Retirement Account, Life Income Fund or Locked-in Retirement Income Fund based on Financial Hardship.

FST File Number	Superintendent of Financial Services' Notice of Proposal	Comments
U0244-2004	To Refuse to Consent dated October 6, 2004	Ongoing

Decisions to be Published

Consumers' Gas Ltd.
Marcel Brousseau
DCA Employees Pension Committee



Financial Services Tribunal Decisions with Reasons

INDEX NO.: FST File Number P0192-2002

PLAN: Pension Plan for the Employees of Kerry (Canada) Inc.,
Registration Number 238915 (the "Plan")

DATE OF DECISION: September 1, 2004

PUBLISHED: Bulletin 14/1 and FSCO website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a proposal of
the Superintendent of Financial Services to
refuse to make an order under sections 69
and 87 of the Act relating to the Pension Plan
for the Employees of Kerry (Canada) Inc.,
Registration Number 238915 (the "Plan");

AND IN THE MATTER OF a Hearing in
accordance with subsection 89(8) of the Act;

BETWEEN:

ELAINE NOLAN, GEORGE PHILLIPS,
ELISABETH RUCCIA, KENNETH R.
FULLER, PAUL CARTER, R.A. VARNEY
and BILL FITZ, being members of the DCA
EMPLOYEES PENSION COMMITTEE,
representing certain of the members and
former members of the Pension Plan for
the Employees of Kerry (Canada) Inc.
Applicants

- and -
SUPERINTENDENT OF FINANCIAL
SERVICES and KERRY (CANADA) INC.
Respondents

BEFORE:

Mr. Colin H.H. McNairn,
Vice Chair of the Tribunal
and Chair of the Panel

Mr. Shiraz Y.M. Bharmal,
Member of the Tribunal and of the Panel

Mr. David A. Short,
Member of the Tribunal and of the Panel

APPEARANCES:

For the DCA Employees Pension Committee
Mr. Bill Fitz (at the evidence
phase of the hearing)
Mr. Ari N. Kaplan &
Ms. Leanne Hull (at the argument
phase of the hearing)

For the Superintendent of Financial Services
Ms. Deborah McPhail

For Kerry (Canada) Inc.
Mr. Ronald J. Walker &
Ms. Christine Tabbert

HEARING DATES:

March 2-3, 2004 (evidence phase)
June 8-9, 2004 (argument phase)

REASONS FOR DECISION

Facts

History of the Plan and Trust Agreements

Kerry (Canada) Inc. ("Kerry Canada"), one of the respondents in this proceeding, is the successor to DCA Canada Inc. ("DCA Canada") and the sponsor of a pension plan for its employees that was initially established by its predecessor. We refer to the employer and plan sponsor from time to time as the "Company" and the pension plan for the Company's employees as the

"Plan". Kerry Canada became the plan sponsor as a result of its purchase of the business of DCA Canada at the end of 1994, in an asset purchase transaction, and the subsequent amendment of the Plan to reflect the assumption of the Plan by Kerry Canada, as contemplated by the purchase transaction.

The Plan was established on a defined benefit basis by the terms of a plan text effective December 31, 1954 (the "1954 Plan") with funding through Company and employee contributions to a pension fund constituted as a trust under a trust agreement made as of December 31, 1954 between the Company and National Trust Company, Limited as trustee (the "1954 Trust Agreement"). We refer to the pension fund for the Plan as the "Fund". The 1954 Trust Agreement describes the Fund and the trust limitations associated with it as follows:

The Company hereby establishes with the Trustee a Fund consisting of such money and such property acceptable to the Trustee as shall from time to time be paid or delivered to the Trustee and the earnings and profits thereon. All such money and property, all investments made therewith and proceeds thereof and all earnings and profits thereon, less any payments which at the time of reference shall have been made by the Trustee as authorized herein, shall constitute the Fund hereby created and established. The Fund shall be held by the Trustee in trust and dealt with in accordance with the provisions of this Agreement. No part of the corpus or income of the Fund shall ever revert to the Company or be used for

or diverted to purposes other than for the exclusive benefit of such persons or their beneficiaries or personal representatives as from time to time may be designated in the Plan except as therein provided.

The initial beneficiaries of the trust were employees and retired employees of the Company, their beneficiaries or estates and their contingent annuitants (as per section 22 of the 1954 Plan).

A new trust agreement was entered into between the Company and the same trustee as of May 31, 1958 (the "1958 Trust Agreement"), the terms of which are similar to those of the 1954 Trust Agreement which it purports to replace. We have considered both the 1954 and 1958 Trust Agreements in these Reasons as the parties were unable to agree that, from the effective date of the 1958 Trust Agreement, the governing provisions of the trust are to be found exclusively in that Agreement.

Over the years, the Plan was amended a number of times, sometimes with an accompanying restatement of the full text of the Plan as amended. The Plan amendments have included amendments effective as of January 1, 1965 (the "1965 Plan Amendments") and amendments reflected in a revised and restated plan as at January 1, 2000 (the "2000 Plan"). The 2000 Plan has been submitted to the Superintendent of Financial Services (the "Superintendent"), the other respondent in this proceeding, for registration but has not yet been registered. The 1965 Plan Amendments and the 2000

Plan makes revisions to the obligation of the Company to make contributions under the Plan. Beginning in 1985 and continuing thereafter, at least through 2001, the Company has taken contribution holidays under the Plan, apparently on the faith of the revised contribution obligation.

On or about November 22, 1999, notice was given by the Company to its employees advising them that they were being given a one-time opportunity to convert their defined benefit entitlements, as of January 1, 2000, to a "new plan" established on a defined contribution basis, and requiring that any exercise of that option should be made by December 15, 1999, any such exercise to have the effect of eliminating any pension entitlements "under the current defined benefit plan". The 2000 Plan provides, among other things, for the addition of a defined contribution component to the Plan. Those participating in that component (designated "Part 2" under the 2000 Plan), funded by an insurance policy, include those employees who exercised their option to convert to a defined contribution arrangement and new employees hired after January 1, 2000 (collectively the "Part 2 members"). Those who did not exercise the conversion option remain in the defined benefit component of the Plan (designated "Part 1" under the 2000 Plan). As "Part 1 members", their pension entitlements continue to be provided from the Fund, now reduced by the commuted values, as at December 31, 1999, of the accrued benefits of the employees who exercised their option to become Part 2 members.

History of the Dispute

The DCA Employees Pension Committee (the "Committee"), the applicant in this proceeding, made a request to the Superintendent to:

- order the Company to reimburse the Plan for all the contributions that the Company should have made to the Fund, together with income that would otherwise have been earned thereon, but for the contribution holidays that it had taken;
- deny registration of the 2000 Plan; and
- order the wind up of the Plan as at December 31, 1994 under s. 69 of the *Pension Benefits Act* (the "Act").

The Committee made an additional request of the Superintendent, asking that the Superintendent order the reversal of certain expense charges made against the Fund. The Superintendent's proposal in response to that request was the subject of an earlier proceeding before this Tribunal (see *Kerry (Canada) Inc. v. Superintendent of Financial Services and Elaine Nolan, George Phillips, Elisabeth Ruccia, Kenneth R. Fuller, Paul Carter, R.A. Varney and Bill Fitz, being members of the DCA Employees Pension Committee* (FST File No. PO191-2002), reported in the Financial Services Commission of Ontario Pension Bulletin, May 2004, vol. 13, issue 2, at pp. 132-145).

By notice of proposal dated April 22, 2002 (the "Notice of Proposal"), the Deputy Superintendent of Financial Services, acting as delegate of the Superintendent, proposed

to refuse to take any of the three actions requested by the Committee noted above.

The Committee requested a hearing by this Tribunal, pursuant to s. 89(6) & (8) of the Act, with respect to the proposals in the Notice of Proposal, which has resulted in this proceeding. On application to the Tribunal, Kerry Canada was made a party to the proceeding.

The Issues in the Dispute

For the purposes of the proceeding, the parties identified three major issues, which can be summarized as follows:

- do the terms of the Plan and applicable Trust Agreement permit the Company to take contribution holidays since 1985 and, if not, should the Superintendent be directed to order the Company to pay into the Fund all employer contributions that it did not make by virtue of taking contribution holidays, together with an amount equal to the income that would have been earned thereon in the Fund (the "Contribution Holiday Issue");
- is the 2000 Plan allowing for optional conversion to a defined benefit arrangement valid pursuant to the terms of the Plan and the Act and, if not, should the Superintendent be directed to refuse registration of the 2000 Plan (the "Conversion Issue"); and
- do the circumstances surrounding and immediately following the sale of assets by DCA Canada to Kerry Canada and the resulting changes in the Plan establish

grounds for the Superintendent to order the wind up of the Plan and, if so, should the Superintendent be directed to order the wind up of the Plan and, if not, is there any other remedy that the Tribunal could or should order (the "Wind Up Issue").

We will deal with these issues separately and in the order in which we have described them.

CONTRIBUTION HOLIDAY ISSUE

The Company's Authority to Take Contribution Holidays under the Terms of the General Regulation

The General Regulation under the Act has, since 1966 (see Ont. Reg. 103/66, s. 2(11)), permitted an employer to take a contribution holiday, i.e. to refrain from contributing to an on-going pension plan that it sponsors to the extent that the funding of the plan is in a surplus position (see s. 7(3) of Ont. Reg. 909 and its predecessors). In *C.U.P.E. Local 1000 v. Ontario Hydro* (1989), 58 D.L.R. (4th) 552, the Ontario Court of Appeal said that an employer cannot rely on this permission unless the plan itself provides for or contemplates the taking of a contribution holiday (at p. 564). However, in *Askin v. Ontario Hospital Association* (1991), 2 O.R. (3d) 641, a differently constituted panel of the same court characterized the latter statement as referable to a situation where there is a calculated contribution mandated by the terms of a pension plan in the nature of that required by the statutory plan at issue in *Ontario Hydro* (see *Askin*, at pp. 651 & 657-658). In *Askin*, by comparison,

the employer was required to contribute to a pension plan "on a basis determined by the Actuary from time to time" (see p. 644). In those circumstances, the court concluded that an employer is acting within the scope of the authorization for contribution holidays, contained in the General Regulation, where its actuary takes surplus into account when determining the employer's required contribution to the pension plan, subject only to any restrictions on such a practice contained in the plan text (see p. 651). In other words, surplus can be notionally applied against a contribution obligation so long as the plan does not prohibit it. The Company's Authority to Take Contribution Holidays under the Terms of the Plan

We turn now to a consideration of the Company's contribution obligation under the Plan that was in effect when the Company began to take contribution holidays. Those contribution holidays were taken commencing in 1985. By that time, the original employer contribution provision of the Plan had been modified, as a result of the 1965 Plan Amendments, to provide as follows:

The Company shall contribute from time to time but not less frequently than annually such amounts as are not less than those certified by the Actuary as necessary to provide the retirement income accruing to members during the current year pursuant to the Plan and to make provision for the proper amortization of any initial unfunded liability or experience deficiency with respect to benefits previously accrued as

required by the *Pension Benefits Act*, after taking into account the assets of the Trust Fund, the contribution of Members during the year and such other factors as may be deemed appropriate (section 14(b)).

If this provision is valid, it would permit the Company to take contribution holidays for it is virtually identical to the employer contribution provision that was found by the Supreme Court of Canada in *Schmidt v. Air Products Canada Ltd.* (1994), 115 D.L.R. (4th) 631, to allow for contribution holidays (see pp. 671-672). In *Schmidt*, the court concluded that the employer contribution provision in question was like that in *Askin* rather than that in *Ontario Hydro* (at pp. 671-672). If that is so in respect of the employer's contribution obligation at issue in *Schmidt*, it must also be so in respect of the employer's contribution obligation in the present case, given that the two obligations are substantially the same. There is nothing in the Plan as altered by the 1965 Plan Amendments (nor in the 1954 or 1958 Trust Agreement) that imposes any restrictions on the taking of contribution holidays by the Company, which might distinguish the situation from that in *Askin* and *Schmidt*.

The Effect of the Trust on the Company's Authority to Take Contribution Holidays

The fact that the Fund is subject to a trust for the benefit of employees is not inconsistent with the authority of the Company to take contribution holidays since a contribution holiday does not amount to a use or diversion of the Fund assets, for purposes other than

the exclusive benefit of employees and other beneficiaries, in violation of section 1 of the 1954 Trust Agreement (section 1 of the 1958 Trust Agreement is in similar terms). It is not a diversion of assets from the Fund to the prejudice of the beneficiaries because no payment is made from the Fund and the beneficiaries' entitlement is simply to receive the defined benefits provided in the Plan from the Fund. Any surplus in the Fund, in excess of what is required to satisfy those entitlements, to which the Company resorts for the purpose of a contribution holiday, is indefinite and only becomes ascertainable on a wind up of the Plan (including a partial wind up, in which event a pro rata share of the surplus, relating to the part of the plan being wound up, becomes actual rather than notional; see *Monsanto Canada Inc. v. Ontario (Superintendent of Financial Services)*, an unreported decision of the Supreme Court of Canada dated July 29, 2004, esp. at para. 46). Therefore, the taking of contribution holidays does not constitute an encroachment on the trust established in respect of the Fund. These conclusions are directly supported by the authority of *Schmidt* (see (1994), 115 D.L.R. (4th) 631, at p. 665).

The Validity of the Provisions of the Plan Authorizing Contribution Holidays

The next question that we have to consider is whether the employer contribution provisions introduced by the 1965 Plan Amendments are amendments to the Plan of a kind that are properly authorized.

The Effect of the Absence of an Express Power to Revoke the Trust

In *Schmidt*, the Supreme Court of Canada said that “in the context of pension trusts, the reservation by the settler [the Company in the present case] of an unlimited power of amendment does not include a power to revoke the trust”; rather, a revocation power “must be explicitly reserved in order to be valid” (at p. 660). The power to amend the trust established by the 1954 and 1958 Trust Agreements that is set out in those Agreements (in section 11) does not explicitly reserve such a power of revocation to the Company.

The 1954 Trust Agreement contains a recital, which is consistent with the body of the Agreement (including, particularly, section 1), to the following effect:

WHEREAS it is desirable that funds irrevocably contributed for the payment of benefits under the Plan be segregated and held in trust in a Trust Fund for the exclusive benefit of such employees or their beneficiaries or personal representatives as shall be included under the Plan.

There is a similar recital, but in the past tense, in the 1958 Trust Agreement.

It is clear, therefore, that the relevant trust relates to funds contributed under the Plan. The trust does not extend to funds that would have been contributed under the Plan but for the assertion by the Company of a right to take a contribution holiday (or

but for the Company’s insolvency or any other circumstance). Nor is the Company’s obligation to contribute to the Plan impressed with a trust. In fact, that obligation is one that has its source in the Plan rather than any trust agreement. The Plan is not part of the 1954 or 1958 Trust Agreement. In fact, the 1958 Trust Agreement recites the opposite, i.e. that the Agreement is part of the Plan. Neither the Plan nor either of those Trust Agreements says that the Plan, which contains the Company’s contribution obligation, is part of the Trust Agreement. In these circumstances, the Company’s contribution obligation cannot be part of the trust.

Thus, any change in the Company’s obligation under the Plan to contribute to the Fund does not amount to a revocation of trust, in which case it does not have to be supported by an explicit reservation by the Company of a power to revoke the trust.

In *Schmidt*, the employer contribution provision in question was, as in the present case, the result of an amendment to the original terms of the pension plan (see pp. 671 & 682-683) and, as in the present case, the trust agreement establishing a trust fund for the pension plan did not explicitly reserve the power to revoke the trust (see p. 670). There is no suggestion in the majority reasons in *Schmidt* that the amendment might be invalid as a result of these factors, although that may simply be because the point was not argued by the parties challenging the contribution holiday taken by the employer in that case.

The Effect of the *Maurer* Decision

In the present case, the Committee relied on the decision of the Ontario Court of Appeal in *Maurer v. McMaster University* (1995), 23 O.R. (2d) 577, for the proposition that where a pension plan is subject to a trust for the benefit of employees, the plan text cannot be unilaterally amended by the employer to provide for contribution holidays unless a power to revoke the trust has been explicitly reserved to the employer. Unfortunately, the reasons delivered by the Court of Appeal in *Maurer* contain some apparent contradictions, raising doubts as to whether the court was in fact adopting this proposition or leaving for another day the resolution of the issue of whether such an amendment could be validly made in the absence of an explicit power to revoke the trust.

The court in *Maurer* stated, at one point in its reasons, that it was desirable to wait until the issue arises in a case before deciding whether an employer has the right to amend a trustee pension plan unilaterally to allow it to take contribution holidays (at p. 580). As it wasn't necessary to decide that issue in *Maurer*, the court simply declined to support the trial judge's conclusion that there was such a right. But it then went on to amend the relief granted by the trial judge so as to provide a declaration that the amendments to the pension plan in question were invalid to the extent that they purported to give the employer the right to take contribution holidays, to have the return of actuarial surplus during the continuation of the plan and to receive surplus on termination or wind up of the plan (at pp. 580-581).

We think that the amended relief granted by the court was simply a reflection of its disagreement, on the basis of the *Schmidt* decision, with the pre-*Schmidt* determination of the trial judge that the employer could unilaterally amend the pension plan to provide that it was entitled to surplus during and at the termination of the plan even though it had no explicit power to revoke the trust in respect of the pension fund. Since some aspect of the amendments could not stand - i.e. their attempt to obtain for the employer any surplus in the fund - the court presumably thought that the amendments were invalid generally. In other words, the taint of association may well have caused the amendments to fail even to the extent that they gave the employer the right to take contribution holidays. The trial decision in *Maurer* appears to treat these amendments as a package (see (1991), 4 O.R. (3d) 139, at pp. 156 & 159). Consequently, we don't take *Maurer* as authority for the proposition for which the Committee says that it stands. Rather, we think that *Maurer* did, indeed, leave open the question that has to be decided in the present case, i.e. whether an employer has the right to amend a trustee pension plan to allow it to take contribution holidays in the absence of an express reservation of the power to revoke the trust. As we have already indicated, we think that the Company has that right on the basis that such an amendment would not revoke the trust established under the 1954 and 1958 Trust Agreements.

Possible Revocation of Trust by the Grant of Discretion to the Actuary to Fix the Company's Annual Contribution to the Plan

The Committee argued that the 1965 Plan Amendments effected a partial revocation of the trust established by the 1954 and 1958 Trust Agreements because they purport to give discretionary power to the Company's agent, the Plan actuary, to establish the amount of the employer's annual contribution to the Plan when the employer had previously alienated all control over the trust property. In our view, this argument misconceives the nature of the trust property, which consists of the actual contributions to the Fund and the earnings and profits thereon, net of any authorized payments from the Fund made by the trustee (section 1 of the 1954 and 1958 Trust Agreements). Any change in the basis for calculating the amount of the employer's contribution obligation under the Plan does not misdirect any of those funds and only impacts the Fund in the indirect sense that, going forward, the amount of the Fund may be less than it otherwise would be. But that wouldn't result in the Fund being inadequate at that time to meet pension obligations under the Plan, since any permitted contribution holiday would be limited to the amount that is surplus to what is required to satisfy those pension obligations.

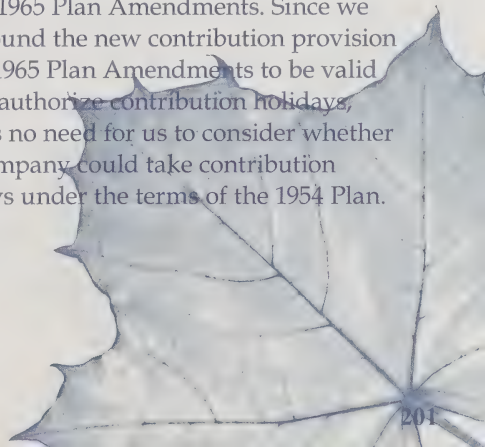
The Scope of the Power of the Company to Amend the Plan

When measured against the general amending power in the 1954 Plan, the employer contribution provisions introduced

by the 1965 Plan Amendments are clearly authorized. That amending power reserves to the Company "the right to change, modify, suspend or discontinue the Plan, should future conditions, in the judgment of the Company, warrant such action, provided that no change or modification will affect any rights that any member may then have with respect to the terms of payment of, or the amount of, retirement income, which the contributions made by the Member and/or the Company, prior to the effective date of such change or modification, will provide" (section 22). The changes in the employer's contribution obligation introduced by the 1965 Plan Amendments do not run afoul of this proviso.

Relevance of the Employer Contribution Provision under the Original Plan

We heard arguments from the Committee that the employer contribution provision under the terms of the 1954 Plan did not permit the Company to take contribution holidays. However, by the time the Company began taking contribution holidays, in 1985, this particular provision had been replaced as a result of changes effected by the 1965 Plan Amendments. Since we have found the new contribution provision in the 1965 Plan Amendments to be valid and to authorize contribution holidays, there is no need for us to consider whether the Company could take contribution holidays under the terms of the 1954 Plan.



CONVERSION ISSUE

Section 18(1) of the Act provides, in clause (d), that the Superintendent may refuse to register an amendment to a pension plan "if the amendment is void or if the pension plan with the amendment would cease to comply with [the] Act and the regulations".

Inconsistencies between the 2000 Plan and 1954 and 1958 Trust Agreements

The Committee argued that the 2000 Plan should not be registered because of certain inconsistencies with the 1954 and 1958 Trust Agreements, which render the 2000 Plan void because the trust established by those Agreements takes primacy over the Plan text. The Committee claimed that the 2000 Plan is inconsistent with the Trust Agreements in that it permits the employer, in sections 18.08 and 25.02, to take a holiday from its contribution obligation on account of Part 2 members (those who participate in the defined contribution component of the Plan) by resort to the surplus in the Fund, which is held for the benefit of the Part 1 members (those who participate in the defined benefit component of the Plan). We agree that this is indeed the case as these provisions allow the Company to use or divert some part of the Fund, i.e. the surplus, "to purposes other than for the exclusive benefit of" the beneficiaries of the trust in respect of the Fund who, by virtue of the 2000 Plan, are now the Part 1 members. Any holiday taken by the Company in respect of Part 2 contributions in this fashion can only be realized by actually moving money out of the

Fund and transferring it to the insurer that is the funding agency for Part 2, for credit to the individual accounts of the Part 2 members. This action is inconsistent with section 1 of the 1954 Trust Agreement, recited above under the heading "FACTS" (section 1 of the 1958 Trust Agreement is in similar terms).

There are two ways in which this inconsistency could be resolved. The 2000 Plan could be amended to eliminate the authority of the Company to apply the surplus in the Fund to satisfy its contribution obligation in respect of Part 2 members or the Part 2 members could be made beneficiaries of the trust in respect of the Fund (in which case it would seem to follow that the insurance policy that is the funding vehicle for Part 2 should be held by the trustee).

The fact that the 2000 Plan confines the beneficiaries of the trust in respect of the Fund to Part 1 members does not involve a breach of trust since the 1954 and 1958 Trust Agreements contemplate a potentially moving category of beneficiaries of the Fund, subject to the proviso that the category cannot be expanded to include the Company itself. In particular, the beneficiaries of the trust in respect of the Fund under those Agreements are such persons as from time to time may be designated under the Plan (as per section 1 of the Trust Agreements). Thus, the trust language leaves it to the terms of the Plan to designate the beneficiaries of the trust. The 2000 Plan makes such a designation in constituting the Part 1 members beneficiaries of the Fund to the exclusion of the Part 2 members. Because

of the express terms of the trust, as set out in the Trust Agreements, that designation is consistent with the terms of the trust and does not, therefore, involve a breach of trust.

Relevance of the *Aegon* Decision

We note that the circumstances of the present case are quite different from those in *Aegon*, on which the Committee relies. In that case, two pension plans were “merged” subject to the condition, imposed by the Pension Commission of Ontario, that the assets and liabilities of each plan were to be accounted for separately in the merged plan. The pension fund for one of the merging plans was in a surplus position and was subject to a trust for the benefit of plan members. The other merging plan was in a deficit position. The Ontario Court of Appeal held that no part of the assets of the fund in surplus could be applied to meet the liabilities associated with the other fund without breaching the trust in favour of the beneficiaries of the fund in surplus. In the present case, we don’t have two funds in relation to a single pension plan. Rather, we have one pension fund (the Fund), which was formerly held in trust for the benefit of all employees, that, after the effective date of the 2000 Plan, is to be held in trust for Part 1 members by virtue of a change in the designation of the class of beneficiaries contemplated by the terms of the trust.

The Nature and Effect of Deficiencies in the Disclosure Associated with the Conversion Option

Finally, the Committee argued that the 2000 Plan should be refused registration because of inadequacies in the Company’s process of disclosure to its employees in connection with the exercise of the conversion right associated with the changes effected by the 2000 Plan. We heard evidence as to the information and access to advice, and the time for obtaining and considering that information and advice, that were afforded by the Company to its employees. There appear to have been some shortcomings in the disclosure process, including a misdescription of the change of the pension arrangements that were subsequently to take place as the creation of a new defined contribution plan when a defined contribution component of the existing Plan was actually established. These shortcomings raise questions as to whether employees were adequately informed of the material factors that might affect their conversion decisions by the time they had to make that decision. However, we do not think that the alleged deficiencies would make the 2000 Plan void or inconsistent with the Act or the General Regulation. In fact, the conversion option was provided before the effective date of the 2000 Plan (i.e. before January 1, 2000) and was not established by that Plan; rather, the conversion process is simply described, in the past tense, in the 2000 Plan (in section 24.01). Therefore, any deficiencies in the process cannot fairly be taken to affect the validity of the amendments introduced by the 2000 Plan.

Neither the Act nor the General Regulation establishes a process for giving notice to pension plan members of a conversion option. While the Act does require, in s. 26(1), that notice be given of an adverse amendment to a pension plan that reduces pension benefits prospectively, a conversion from a defined benefit pension arrangement to a defined contribution arrangement does not necessarily have that effect. Rather, it essentially changes the risks associated with pension benefits. In any event, even if notice of an adverse amendment was required in respect of the 2000 Plan, under s. 26(1) of the Act, the Superintendent would have been entitled, under s. 26(4), to refrain from requiring the Company to give such a notice if he was of the opinion that the 2000 Plan would not substantially affect pension benefits, rights or obligations of any members. The Superintendent has taken the position, in responding to the requests made to him by the Company (in an attachment to a letter dated April 22, 2002 from the Deputy Superintendent to the chair of the Committee) and in this proceeding that the employees potentially affected by the 2000 Plan had adequate notice. In any case, the Act does not say that a failure to give notice of an adverse amendment, when required under the Act, results in the amendment being void or otherwise non-registerable. For all of these reasons, the deficiencies in the conversion process would not, in themselves, constitute sufficient grounds for the Superintendent to refuse to register the 2000 Plan.

PARTIAL WIND UP ISSUE

The Committee argued that the Superintendent was entitled to, and should have, ordered a partial wind up of the Plan on the basis of the circumstances surrounding the sale of assets from DCA Canada to Kerry Canada as at the end of 1994. The authority of the Superintendent to order a partial wind up of a pension plan is derived from s. 69 of the Act. That section sets out a list of grounds for either a partial wind up or a full and final wind up of a pension plan, but does not require the Superintendent to order such action when the grounds are present. None of those grounds fits the circumstances surrounding the sale of assets from DCA Canada to Kerry Canada in 1994. Of course, by that time DCA Canada had begun to take contribution holidays, a practice that was continued thereafter by Kerry Canada. The Committee maintained that this amounted to a "cessation or suspension of employer contributions to the pension fund", in the sense of clause (a) of s. 69(1) of the Act, and, therefore, constituted grounds for a partial wind up of the Plan. We think that clause (a) of s. 69(1) should logically be taken to refer to a situation where an employer does not make contributions to a pension plan that it is not relieved from making by virtue of a surplus in the pension fund for the plan. As we have noted above, in our discussion of the Contribution Holiday Issue, neither the Act nor the Plan requires the Company to contribute to the pension fund for the Plan, i.e. the Fund, when it has a sufficient balance to cover pension liabilities. Moreover, both the General Regulation under the Act and

the Plan specifically authorize the Company to take a contribution holiday in that event.

While we have found that the contribution holidays taken by the Company in respect of Part 2 of the Plan after January 1, 2000 were not validly authorized by the 2000 Plan, because of an inconsistency with the trust in respect of the Fund, that situation will be remedied by our orders in this case (see below under the heading "DISPOSITION") in that the 2000 Plan will be amended to provide the necessary authority or the Fund will be reimbursed for the amount of the contributions made from the Fund.

The Committee also argued that even if there were no current grounds for a partial wind up of the Plan, the Superintendent should be directed to monitor the Plan with a view to making an order for its partial wind up when there are no active members left in Part 1 of the Plan, at which time any employer contributions in respect of current service of employees under that Part would necessarily cease. Even if the latter event were to constitute grounds for a partial wind up of the Plan under clause (a) of s. 69(1) of the Act, we are not persuaded that the monitoring of the Plan is something that the "Superintendent ought to do in accordance with [the] Act and regulations" (see s. 89(9) of the Act) and, therefore, something that we should order the Superintendent to do.

Finally, the Committee made reference to s. 80 of the Act as justifying some form of alternative relief for employees whose potential interest in the surplus in the

Fund was adversely affected as a result of the circumstances surrounding the sale of assets from DCA Canada to Kerry Canada. However, s. 80 has no application in connection with a sale of assets unless the purchaser brings any transferred employees under its own pension plan. That is not the situation in the present case as the transferred employees of DCA Canada remained members of the Plan, to which they had previously belonged, although it was no longer a DCA pension plan but a Kerry pension plan by virtue of a change of name and sponsorship.

DISPOSITION

For the foregoing reasons, we order the Superintendent to

- (a) carry out the proposals contained in the Notice of Proposal (subject to para. (c) below), except for the proposal to refuse to deny registration of the 2000 Plan;
- (b) deny registration of the 2000 Plan in its current form; and
- (c) if within 90 days of the date of these Reasons the 2000 Plan is not amended, with effect from January 1, 2000, to make the Part 2 members beneficiaries of the trust in respect of the Fund, order Kerry Canada to reimburse the Fund for the amount of all contributions that, had it not taken contribution holidays after January 1, 2000, it would have had to make under the Plan in respect of the Part 2 members but that it made from the

Fund, together with the income on the amount of such contributions that would have been earned thereon in the Fund.

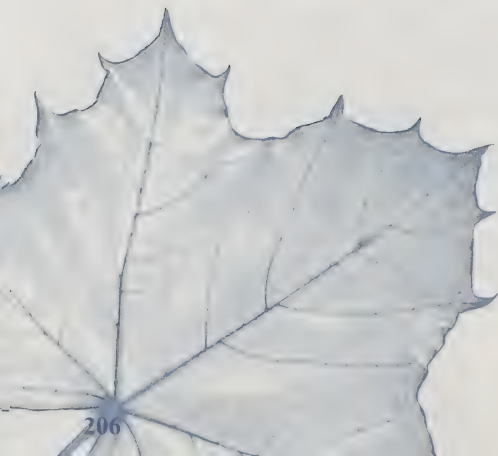
If any party wishes to make application for an order of costs in this matter, it may do so by written request filed with the Tribunal and served on the other parties within 30 days of this decision. The other parties shall have 14 days to file and serve written responses to any such request.

DATED at Toronto, Ontario, this
1st day of September 2004.

Colin H.H. McNairn,
Vice Chair of the Tribunal
and Chair of the Panel

Shiraz Y.M. Bharmal,
Member of the Tribunal
and of the Panel

David A. Short,
Member of the Tribunal
and of the Panel



INDEX NO.: FST File Number P0076-99

PLAN: Pension Plan for Employees of The Consumers' Gas Company Ltd. and Designated Affiliated, Associated and Subsidiary Companies (now the Pension Plan for Employees of Enbridge Gas Distribution Inc. and Affiliates), Registration Number 242016

DATE OF DECISION: October 19, 2004

PUBLISHED: Bulletin 14/1 and FSCO website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the *Pension Benefits Act*, R.S.O.1990, c.P8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28 (the "Act");

AND IN THE MATTER OF a Partial Plan Wind-Up Report submitted by The Consumers' Gas Company Ltd. (now Enbridge Gas Distribution Inc.) in respect of the Pension Plan for Employees of The Consumers' Gas Company Ltd. and Designated Affiliated, Associated and Subsidiary Companies (now the Pension Plan for Employees of Enbridge Gas Distribution Inc. and Affiliates), Registration Number 242016;

AND IN THE MATTER OF a Hearing in accordance with subsection 89(8) of the Act .

BETWEEN:

ENBRIDGE GAS DISTRIBUTION INC.
(formerly The Consumers'
Gas Company Ltd.)

Applicant

- and -

SUPERINTENDENT OF
FINANCIAL SERVICES and
A GROUP OF FORMER
EMPLOYEES OF TELESIS
Respondents

ORDER

WHEREAS the parties have agreed upon terms of settlement as evidenced by the attached Minutes of Settlement;

AND WHEREAS the parties have consented to the terms of this Order;

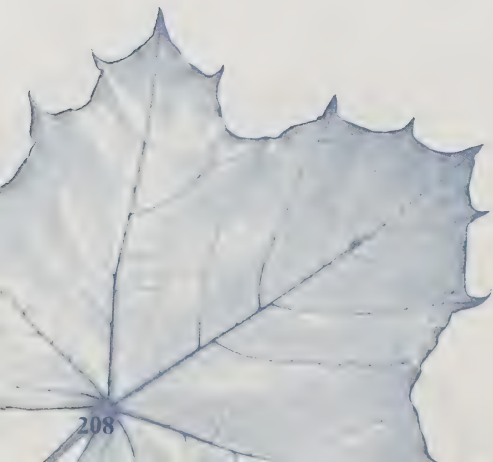
The Tribunal orders:

1. The Minutes of Settlement are hereby approved;
2. Following approval of the Revised Report as referenced in paragraph 2 of the Minutes of Settlement, the Applicant is granted leave to withdraw its Request for Hearing, without costs or any other conditions other than as set out below;
3. Thereafter, the Superintendent of Financial Services shall withdraw the Notice of Proposal in this matter and will refrain from carrying out said Notice of Proposal;
4. The Tribunal shall remain seized to deal with any matter arising from implementation of the Minutes of Settlement.

DATED at Toronto this 19th
day of October, 2004.

Colin McNairn,
Chair

Heather Gavin,
Member



**FST File No. P0076-99
FINANCIAL SERVICES TRIBUNAL**

IN THE MATTER OF the *Pension Benefits Act*, R.S.O.1990, c.P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28 (the "Act");

AND IN THE MATTER OF a Partial Plan Wind-Up Report submitted by The Consumers' Gas Company Ltd. (now Enbridge Gas Distribution Inc.) in respect of the Pension Plan for Employees of The Consumers' Gas Company Ltd. and Designated Affiliated, Associated and Subsidiary Companies (now the Pension Plan for Employees of Enbridge Gas Distribution Inc. and Affiliates), Registration Number 242016;

AND IN THE MATTER OF a Hearing in accordance with subsection 89(8) of the Act.

BETWEEN:

**ENBRIDGE GAS DISTRIBUTION INC.
(formerly The Consumers'
Gas Company Ltd.)
Applicant
- and -
SUPERINTENDENT OF
FINANCIAL SERVICES and
A GROUP OF FORMER
EMPLOYEES OF TELESIS
Respondents**

MINUTES OF SETTLEMENT

WHEREAS the Applicant is the sponsoring employer and administrator of the Pension Plan for Employees of Enbridge Gas Distribution Inc. and Affiliates (formerly the Pension Plan for Employees of The Consumers' Gas Company Ltd. and Designated Affiliated, Associated and Subsidiary Companies), Registration Number 242016 (the "Plan");

AND WHEREAS effective May 31, 1994, the Telesis Oil and Gas Division of British Gas Enterprises (Canada) Limited, a participating employer in the Plan, was sold;

AND WHEREAS the Applicant terminated the Plan in part as it related to those members employed in the Telesis Oil and Gas Division of British Gas Enterprises (Canada) Limited, members employed by Telesis Oil and Gas Ltd. and members employed by Underwater Gas Developers Limited ("Affected Members");

AND WHEREAS in November 1994, the Applicant filed a report on the partial wind-up of the Plan as at May 31, 1994 (the "Partial Wind-Up Report") pursuant to Section 70 of the Act;

AND WHEREAS the Superintendent of Financial Services (the "Superintendent"), by Notice of Proposal dated August 19, 1999 (the "Notice Of Proposal"), proposed to refuse to approve the Partial Wind-Up Report;

AND WHEREAS the Partial Wind-Up Report was revised by the Applicant in 2000 to reflect the inclusion of certain bonuses in pensionable earnings;

AND WHEREAS the Applicant commenced these proceedings before the Financial Services Tribunal in respect of the Notice Of Proposal;

AND WHEREAS the parties to these Minutes of Settlement wish to resolve all remaining matters at issue in these proceedings;

NOW THEREFORE the parties hereto agree to the following terms in full and final settlement of all claims made by the parties, arising from the subject matter of these proceedings:

1. The Partial Wind-Up Report shall be further revised (the "Revised Report") to reflect the following:

(a) Affected Members whose age plus service equalled 55 or more at May 31, 1994 shall be entitled to "grow-in" to the automatic pension increases provided under former section 8.12(2) and Schedule D of the Plan pursuant to Section 74 of the Act. Depending on each Affected Member's election and circumstances, this additional benefit would take the form of: (a) transfers of commuted value entitlements (accumulated at 7.5% per annum); (b) refunds of excess contribution entitlements (accumulated at 5.36% per annum); (c) increases in pension entitlements to pensioners; or (d) cash

payments to members who previously elected a transfer of their benefit from the Plan in an amount equal to the difference in their May 31, 1994 entitlement accumulated at 7.5% per annum; and

2. Affected Members shall be entitled to a distribution in cash of all of the wind-up surplus attributable to that portion of the Plan being wound-up, calculated in the Revised Report after giving effect to subparagraph 1(a) hereof based on the same methods and assumptions used in the Partial Wind-Up Report. This principal amount of \$1,334,869.00 as of May 31, 1994 (net of expenses) shall be credited with interest equal to the rate of return earned on such surplus from June 1, 1994 to the last day of the month preceding the month in which the date of distribution falls, net of the administrative, custodial, and investment expenses charged to the Plan fund (which expenses have averaged 0.44 percent per annum from June 1, 1994 through July 31, 2004). It is agreed that such net rate of return to July 31, 2004 was 9.26 percent per annum, resulting in an amount of surplus of \$3,284,435.00 at that date. Subject to paragraph 4 hereof, the amount of surplus to which each Affected Member is entitled shall be in proportion to the pro rata share of each Affected Member's wind-up liabilities under the Plan as at May 31, 1994 and the total wind-up liabilities in respect of Affected Members as at May 31, 1994.
3. Within 60 days following the execution of these Minutes of Settlement, the Applicant shall file the Revised Report. Except for

the revisions that are required to give effect to these Minutes of Settlement, the Revised Report will be unchanged from the Partial Wind-Up Report as first revised in 2000. The Superintendent shall approve the Revised Report, provided it is consistent with these Minutes of Settlement. The Superintendent shall not support the position of any person or party that seeks to challenge these Minutes of Settlement, or otherwise take any position on any litigation concerning members, former members, or others entitled to benefits under the Plan that is inconsistent with these Minutes of Settlement. The Superintendent further agrees not to support the position of any person or party that seeks to challenge the approval of the Revised Report, provided that the Revised Report otherwise complies with these Minutes of Settlement.

4. On receiving the Superintendent's approval for the Revised Report as set out in paragraph 2 hereof, the Applicant shall withdraw its request for a hearing. All parties will request that the Tribunal accept the Applicant's request to withdraw on a without costs basis and with no conditions imposed, subject to paragraph 7 hereof. Subject to paragraph 7 hereof, the parties agree that these proceedings shall be terminated, save and except for any matter arising from the implementation of these Minutes of Settlement. The Superintendent shall then withdraw the Notice of Proposal.
5. Legal costs of the Affected Members represented by Koskie Minsky LLP, as listed in Appendix 1 hereto, shall be

deemed a reasonable administrative expense of implementing the partial wind-up pursuant to the Revised Report and shall be deducted pro rata from each such Affected Member's entitlement to surplus calculated in accordance with subparagraph 1(b) hereof, and remitted out of the Plan directly to Koskie Minsky LLP, in trust, upon execution of these Minutes of Settlement and issuance of the Order described in paragraph 7 hereof. The sum and total of all legal costs of the Affected Members represented by Koskie Minsky LLP is \$39,100.

6. These Minutes of Settlement are made without prejudice and without precedent to any other matter, and without admission of liability by any party. The parties hereto agree that the implementation of these Minutes of Settlement will be in full and final satisfaction of all claims by the parties and by all members, former members, and others entitled to benefits under the Plan arising from the termination of the Affected Members represented by Koskie Minsky LLP.
7. The parties agree to execute any document or documents that may reasonably be required to give effect to these Minutes of Settlement.
8. The parties agree that these Minutes of Settlement shall be made an Order of the Financial Services Tribunal, and that the Financial Services Tribunal shall remain seized to deal with any matter arising from the implementation of these Minutes of Settlement.

October 13, 2004

Enbridge Gas Distribution Inc.
by its Counsel

Superintendent of Financial Services
by its Counsel

A Group of Former Employees of Telesis
by its Counsel



APPENDIX 1

Telesis Partial Plan Wind-Up Contributing Members To Legal Fund

Number	Contributing Member
1	Anderson, Robert
2	Audit, Noel
3	Augustine, David
4	Bowley, Glen
5	Carter, Bruce
6	Chupa, Terry
7	Costella, Debra
8	Coulter, Steve
9	Cowx, Doug
10	Crewe, Bob
11	Cuthill, Rob
12	Darowski, Ken
13	Dawson, Don
14	Dawson, Ester
15	Druet, Paul
16	Ecker, Irene
17	Elvidge, Kevin
18	Epp, Marg
19	Fairchild, Jeff
20	Falls, Bill
21	Fedor, Barb
22	Fosum, Donna
23	Garner, Mike
24	Gray, Zane
25	Hoey, Neil
26	Hughes, Sheree
27	Johnson, Rick
28	Kasha, Lonnie
29	Lahay, Lori
30	Laplante, Ed
31	Laplante, Ernie
32	Lince, Chris

Telesis Partial Plan Wind-Up Contributing Members To Legal Fund

Number	Contributing Member
33	MacKinnon, Greg
34	Manning, Sue
35	Marsden, Max
36	McEwan, Bob
37	McPhee, Bruce
38	McPhee, Ross
39	Mikkelsaar, Peter
40	Morse, John
41	Murphy, Bryen
42	Omar, George
43	Osadac, Mark
44	O'Sullivan, Larry
45	Pegg, David
46	Pretulac, Lauri
47	Riddell, Sharon
48	Ross, Greg
49	Ross, Brenda
50	Ross, Sherry
51	Rousselle, John
52	Stasso, Sharon
53	Stinson, Ron
54	Thompson, Carol
55	Tompkins, Scott
56	Tricker, Dan
57	Vanderveen, Jacob
58	VanLoy, Kim
59	Vidler, Jim
60	Wilson, Alex
61	Wilson, Barrie
62	Wolf, Rolfe
63	Woodworth, Brian
64	Yee, Verna

INDEX NO.: FST File Number P0183-2002

PLAN: Electrical Industry of Ottawa Pension Plan Ontario,
Registration No. 0586396 (the "Plan")

DATE OF DECISION: October 22, 2004

PUBLISHED: Bulletin 14/1 and FSCO website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, Chapter P. 8, as amended by the
Financial Services Commission of Ontario Act,
1997, S.O. 1997, Chapter 28 (PBA) (the "Act");

AND IN THE MATTER OF a Proposal
by the Superintendent of Financial Services
(the "Superintendent") to Refuse to Make an
Order Under Section 87 of the Act, respecting
a Request by Mr. Marcel Brousseau Relating to
the Electrical Industry of Ottawa Pension Plan
Ontario, Registration No. 0586396 (the "Plan")

AND IN THE MATTER OF a Hearing in
Accordance with Subsection 89(8) of the Act.

BETWEEN:

MARCEL BROUSSEAU
Applicant

- and -

**SUPERINTENDENT OF FINANCIAL
SERVICES OF ONTARIO and
BOARD OF TRUSTEES OF THE
ELECTRICAL INDUSTRY OF
OTTAWA PENSION PLAN**
Respondents

BEFORE:

Ms. Anne Corbett,
Vice Chair of the Tribunal
and Chair of the Panel

Ms. Heather Gavin,
Member of the Tribunal and
Member of the Panel

Mr. David Vincent,
Member of the Tribunal and
Member of the Panel



APPEARANCES:

Mr. Marcel Brousseau
Appearing on his own behalf

For the Superintendent of Financial Services
Mr. Mark Bailey
For the Board of the Trustees of the
Electrical Industry of Ottawa Pension Plan
Ms. Fiona Campbell

HEARING DATE:

March 30, 2004

REASONS

Background

The Applicant, Mr. Brousseau, is a member of the Electrical Industry of Ottawa Pension Plan (the "Plan"). The Plan is a multi-employer pension plan covering members of the International Brotherhood of Electrical Workers, Local 586. The Plan is administered by the Board of Trustees of the Electrical Industry of Ottawa Pension Plan (the "Trustees"). Coughlin and Associates Limited ("Coughlin") provide administrative services to the Plan.

This hearing results from a request made by Mr. Brousseau to the Financial Services Commission in October, 2001 with respect to his pension credits prior to 1985. In response to that request the Deputy Superintendent issued a Notice of Proposal to issue an Order dated January 22, 2002 that the Trustees, in refusing to give Mr. Brousseau credit during

the lay-off period from November 1983 to 1985, had interpreted the Plan in compliance with the requirements of the *Pension Benefits Act*, the regulation thereunder and the 1985 Plan Text and the 1987 Declaration of Trust.

Mr. Brousseau became a member of the Plan on January 1, 1974 and he was a member of the Plan at the date of the hearing of this matter.

Mr. Brousseau was not given credit under the Plan for the period November 1, 1983 to August 31, 1985.

It is the position of the Superintendent and the Trustees that Mr. Brousseau is not entitled to credit under the Plan for this period of time as he was working for a non-union employer and therefore not "ready, willing and able to work in the electrical industry" as was, it is alleged by the Trustees and the Superintendent, required by the Plan. The Trustees and the Superintendent rely on the decision of the Ontario Superior Court of Justice released November 19, 2001 with respect to the correct interpretation of the Plan in Mr. Brousseau's circumstances.

Mr. Brousseau argues that he relied on the advice of the Business Manager and was never told that he would lose pension credits if he worked for a non-union employer.

At the opening of the hearing counsel for the Trustees acknowledged that there had been a miscalculation of Mr. Brousseau's period of eligibility and a correction would be made to provide an additional thirty-day credit.

The parties submitted an Agreed Statement of Facts to the Tribunal, however, during the hearing the evidence contradicted the Agreed Statement of Facts.

Relevant Provisions of the Plan and Trust Agreement

This Trustees' decision regarding Mr. Brousseau's pension credit during the lay-off period is based on the provisions of the 1977 Trust Agreement. In particular, Article IV of the Trust Agreement provides as follows:

"Insurance Coverage During Unemployment: If the employment of an Employee is terminated by the act of a contractor and while such Employee is a member of the Local, all insurance benefits hereunder shall be continued in force by the Trustee for a period of ninety (90) days after cessation of such employment or longer at the discretion of the Trustees. Employees must be ready, willing and able to work in the electrical industry to remain eligible for insurance benefits under the Plan."

Article V of the Trust Agreement provides as follows:

"Authority of Trustees:

Subject to the stated purposes of the Plan and the provisions of this Agreement the Trustees shall have full authority to determine all questions of coverage and eligibility. They shall have the power to construe the provisions of this Agreement and the terms used herein. Any such determination or such construction

adopted in good faith shall be binding on all parties and beneficiaries hereto."

Issue:

Should the Applicant be granted "credit service" for periods when the Applicant continued to be a member of the Local but was employed by an employer who was not a participating employer under the Plan?

Analysis:

The determination of the "credited service" to which the Applicant is entitled is dependent upon an application of the Plan terms to Mr. Brousseau's employment history.

The parties submitted an Agreed Statement of Facts. The Agreed Statement of Facts states that Mr. Brousseau worked for a participating employer under and was a member of the Plan from January 1, 1974 to the present except during a period between November 1, 1983 and August 31, 1985 when he was on temporary layoff. The Agreed Statement of Facts further provides that during the layoff period, the Applicant worked for Metcalfe Realty, an employer that did not participate in the Plan. During this period the Applicant did not receive pension credits under the Plan except for the first 90 days of the period.

Mr. Brousseau gave evidence that he was laid off by his employer, Glen-Mur Ltd. on September 12, 1983. He then became employed by Metcalfe Realty, an employer who did not participate in the Plan. Mr. Brousseau returned to his former employer

(Glen-Mur Ltd.) for whom he worked for a two-week period in September 1984. All parties agreed that the former employer was a participating employer prior to 1983 and after August 1, 1985. The Trustees argued that there was no evidence that the former employer was a union employer during the relevant two-week period in September 1984. In the absence of evidence that the former employer ceased being a union employer during the relevant period of time (September 1984), we have concluded Mr. Brousseau did work for a participating employer up until November 1, 1983, for two weeks in September 1984 and after August 1, 1985.

The question then becomes how should the Plan terms be interpreted in the case of this employment history.

The interpretation of the relevant Plan provisions has been the subject of a decision of the Court [Ontario Superior Court of Justice, Court File No. 01 CU-18268 dated October 19, 2001]. In that case, the Court was asked to determine whether the Trustees had properly interpreted the Plan documents and adequately exercised their discretion in deciding whether to give members of the Plan credited service under the Plan for the periods before 1984 when they had a break in service and were not working for a participating employer under the Plan. The practice of the Trustees was to give Plan members whose employment by a participating employer was terminated, pension credits for a period of 90 days following the termination. After 90 days if the members were still not working for a participating employer, the

Trustees considered whether the member was "ready, willing and able" to work in the electrical industry. The Trustees did not consider members who were employed by non-participating employers to be "ready, willing and able" to work in the electrical industry. If the members were "ready, willing and able" to work in the electrical industry the Trustees exercised their discretion whether to continue to give the members credited service based on the individual circumstances of each case.

The Court determined that the interpretation and practice of the Trustees was reasonable. In the case of Mr. Brousseau, the Trustees concluded he was not ready, willing and able to work in the electrical industry given that he was working for a non-participating employer.

Mr. Brousseau gave evidence that he was advised by a Business Manager with Local 586 that if he did become employed by a non-participating employer during the layoff period his pension benefits would be maintained so long as he continued to pay his union dues. Mr. Brousseau argues that the representation from the Business Manager should determine his credited service and therefore there should be no break in his credited service for the periods during which he was employed by a non-union employer.

While we believe that Mr. Brousseau was of the impression that his service would continue, the interpretation of the Trustees, as confirmed by the Court, determines the eligibility of Mr. Brousseau to benefits under the Plan.

The question remains however as to whether the Plan terms have been correctly applied to Mr. Brousseau's circumstances. Given that Mr. Brousseau worked for his former employer for two weeks during September 1984 we have concluded that Mr. Brousseau was eligible for credited service for that period and for a period of 90 days following termination with that union employer in 1984 and that such service must be recognized by the Trustees as service with a participating employer under the Plan.

Conclusion:

For the reasons noted above, the Superintendent is ordered to refrain from issuing the Notice of Proposal and the Trustees are directed to provide credited services to Mr. Brousseau for the first 90 days after his layoff in 1983 (starting from September 12, 1983) and for two weeks plus 90 days in 1984.

Costs:

Mr. Brousseau requested an opportunity to make submissions as to costs. He may do so by written request filed with the Tribunal and served on the other parties within 30 days of the date of this decision. The other parties shall have 14 days to file and serve written responses to any such request.

DATED at the City of Toronto this
22nd day of October 2004.

Anne Corbett,
Vice Chair of the Tribunal
and Member of the Panel

Heather Gavin,
Member of the Tribunal
and Member of the Panel

David Vincent,
Member of the Tribunal
and Member of the Panel

INDEX NO.: FST File Number P0240-2004

PLAN: Portship Employees Negotiated Pension Plan,
Registration No. 0393199 (the "Plan")

DATE OF DECISION: November 29, 2004

PUBLISHED: Bulletin 14/1 and FSCO website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

BETWEEN:

AND IN THE MATTER OF a proposal by
the Superintendent of Financial Services
(the "Superintendent"), pursuant to the
Act, to refuse to make an order directing
Pascol Engineering to make an additional
payment from the fund for the Portship
Employees Negotiated Pension Plan,
Registration No. 0393199 (the "Plan") in
respect of Constantin Munteanu's pension
benefits, or the commuted value thereof;

CONSTANTIN MUNTEANU
Applicant
-and-
SUPERINTENDENT OF
FINANCIAL SERVICES
Respondent

BEFORE:

Mr. Colin H.H. McNairn
Chair of the Tribunal

AND IN THE MATTER OF a request
to the Financial Services Tribunal for
a hearing in respect of the proposal,
made pursuant to the Act;

WRITTEN SUBMISSIONS:

On behalf of Constantin Munteanu, from
Mr. Doron J. Gold of Wrock & Associates

AND IN THE MATTER OF a hearing
by way of written submissions on the
jurisdictional questions of whether the
Tribunal has authority to entertain that
request and, if so, whether it should do so;

On behalf of the Superintendent
of Financial Services, from
Mr. Mark Bailey

REASONS FOR DECISION

The Background

The Deputy Superintendent, Pensions Division of the Financial Services Commission of Ontario, acting under delegated authority from the Superintendent, served a notice of proposal dated April 8, 2004 on Mr. Constantin Munteanu, a former employee of Pascol Engineering (or its predecessor company) and member of the Plan, and on Pascol Engineering, the plan sponsor and administrator of the Plan. The notice was to the effect that the Deputy Superintendent refused to make an order under subsection 87(1) of the Act, requested by Mr. Munteanu, directing Pascol Engineering to make an additional payment from the pension fund for the Plan in respect of Mr. Munteanu's pension benefits or the commuted value of those pension benefits.

The notice advised Mr. Munteanu that he was entitled to a hearing by this Tribunal, pursuant to subsection 89(6) of the Act, and that, to request a hearing, he must deliver to the Tribunal a written request requiring a hearing within 30 days of service of the notice. The notice also advised that if Mr. Munteanu should fail to request a hearing within 30 days, the Superintendent may refuse to make the order, as proposed in the notice.

The Tribunal did not receive written notice requesting or requiring a hearing in this matter within 30 days of service of the notice of proposal. On June 9, 2004, Mr. Charles Wrock of Mr. Munteanu's firm of

solicitors faxed a letter bearing that date to the Registrar of this Tribunal requesting a hearing in this matter and indicating that "the correspondence requiring [the solicitors] to file a request for hearing" had been misplaced. That letter was received by the Registrar on June 10, 2004. By letters dated June 11, 2004, the Registrar advised Mr. Wrock that a Request for Hearing, in the form prescribed by the Tribunal's Rules of Practice, was required to be filed and served, in accordance with Rule 15. A completed Request for Hearing was sent by Mr. Wrock to the Tribunal with a cover letter of July 2, 2004 asking, in effect, that the Tribunal convene a hearing notwithstanding the late filing of the Request. The Request for Hearing was received by the Tribunal on July 8, 2004.

On August 9, 2004, the Registrar faxed a letter to counsel for the parties to this proceeding and to Pascol Engineering inviting the submission of written representations to the Tribunal on the following jurisdictional questions;

- whether the Tribunal has the authority to extend the 30-day time period for delivering a notice requiring a hearing under subsection 89(6) of the Act; and
- if so, whether the Tribunal should exercise that authority in the circumstances of this case.

Such representations were made by counsel for the parties, both taking the position that the Tribunal could and should convene a hearing in this matter despite the late delivery or filing of a notice requiring, and a request

for, such a hearing. Pascol Engineering did not submit any written representations.

The Statutory Framework

Section 89 of the Act provides, in its relevant provisions, as follows;

(2) Where the Superintendent proposes to make or to refuse to make an order in relation to,

...

(e) section 87 (administration of pension plan in contravention of Act or regulation);

...

the Superintendent shall serve notice of the proposal, together with written reasons therefor, on the administrator and any other person to whom the Superintendent proposes to direct the order.

...

(6) A notice under subsection ...

(2) ... shall state that the person on whom the notice is served is entitled to a hearing by the Tribunal if the person delivers to the Tribunal, within thirty days after service of the notice under that subsection, notice in writing requiring a hearing, and the person may so require such a hearing.

(7) Where the person on whom the notice is served does not require a

hearing in accordance with subsection (6), the Superintendent may carry out the proposal stated in the notice.

(8) Where a person requires a hearing by the Tribunal in accordance with subsection (6), the Tribunal shall appoint a time and hold the hearing.

...

The Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, as amended (the "SPPA"), to which this Tribunal is subject, provides as follows;

4. (1) Any procedural requirement of this Act or of another Act or regulation that applies to a proceeding, may be waived with the consent of the parties and the tribunal.

The Relevant Rules of Practice

At the time the Request for Hearing was filed in this case, the Tribunal's Rules of Practice (then called the "Interim Rules of Practice") provided, in Rule 15, as follows;

1.01 A proceeding is initiated by a written Request for a Hearing (in Form 1) or by written Notice of Appeal (in Form 2)

1.02 A Request for a Hearing shall be in writing and shall be filed within the time period set out in the statute setting out the right of hearing and shall be served on the Superintendent

and any other interested parties or as directed by the Tribunal.

There are no substantial differences in the versions of these provisions as set out in the Tribunal's current Rules of Practice (the "Current Rules of Practice"), which replaced the Interim Rules of Practice effective August 1, 2004.

The Rules of Practice provide for variations in time periods prescribed by the Rules as follows;

5.01 The Tribunal may, before or after the expiration of a prescribed time period and on such conditions as it considers just, extend or abridge the time prescribed for the performance of anything required under the Rules.

A party who cannot meet a time limit prescribed by the Rules must promptly request an extension (Rule 5.02), although the process for doing so varies between the Interim Rules of Practice and the Current Rules of Practice. Both versions of the Rules authorize the Tribunal to exercise any of its powers under the Rules (e.g. under Rule 5.01) on its own initiative or at the request of a party (Rule 2.02 of the Current Rules of Practice and Rule 2.03 of the Interim Rules of Practice).

Analysis

Section 89 of the Act provides for a hearing by the Tribunal in a back-handed way. It comes at the subject through its prescription

of the contents of the notice of proposal that the Superintendent is required to serve on affected persons. The notice must set out the fact that the recipient of the notice is entitled to a hearing by the Tribunal if a written notice requiring a hearing is delivered to the Tribunal within 30 days of service of the notice of proposal. Although the Act is drafted on the basis that the entitlement to a hearing has its source in the terms of the notice of proposal, it does not indicate how that entitlement will be affected if the notice describes it in an inaccurate and misleading way or not at all. Suppose the notice does not advise a person to whom it is directed of the 30-day period for requiring a hearing by the Tribunal or advises, incorrectly, that the period is 60 days. Would the Tribunal be without any authority to waive the 30-day time period and entertain a notice requiring a hearing that was delivered to it beyond that period? It shouldn't be, given the unfairness of such a result to the person giving the notice requiring a hearing. This unfairness suggests that the 30-day time limit referred to in subsection 89(6) of the Act should not be construed as mandatory (i.e. imperative) or substantive, as it is sometimes put, for that would preclude any discretion, on the part of the Tribunal, to afford a hearing when it was requested beyond the 30-day period, whatever the circumstances might be.

If the time limit is not mandatory or substantive, it must then be directory or procedural in nature. Consequently, it can be waived with the consent of the parties and the Tribunal in accordance with subsection 4(1) of the SPPA. The parties to this proceeding,

Mr. Munteanu and the Superintendent, have effectively consented to such a waiver and the question of whether the Tribunal should also consent is a remaining question that I have to address in these Reasons. Since the parties have consented to waive the time limit, I don't have to decide, for the purposes of this case, whether that time limit could be waived in the absence of the consent of the parties, which would necessitate a consideration of whether subsection 4(1) of the SPPA should be taken to contain an exhaustive description of the circumstances in which the time limit, in subsection 89(6) of the Act, can be waived or otherwise dispensed with.

Rule 15.02 of the Tribunal's Rules of Practice has the effect, in the present case, of incorporating by reference the 30-day time limit referred to in subsection 89(6) of the Act and making it the limit within which Mr. Munteanu was obliged to file with this Tribunal a written Request for Hearing in the form prescribed by the Rules. He did not file such a Request with the Tribunal until 3 months after the date of the notice of proposal. However, the Tribunal has the authority, under Rule 5.01, to extend the 30-day time limit, as adopted by Rule 15.02. I am prepared to consider the correspondence of Mr. Munteanu's counsel to the Registrar as, in effect, a request for such an extension under Rule 15.02 or alternatively to consider, on my own initiative under Rule 2.02 (formerly Rule 2.03, in the Interim Rules), whether such an extension should be granted.

I turn then to the question of whether in the circumstances of this case, the Tribunal should:

- consent to the waiver of the 30-day time limit, for delivering a written notice requiring a hearing, in subsection 89(6) of the Act, and
- grant an extension of the similar time limit, for filing a written Request for Hearing, in Rule 15.02 of the Tribunal's Rules of Practice.

In this case, the delay in delivering a notice requiring a hearing and in filing a Request for Hearing was not significant and, apparently, was the result of inadvertence on the part of Mr. Munteanu's solicitors. Moreover, nether party seems to have taken any action on the faith of the proposal contained in the notice following the expiry of the 30-day period. I am unaware of any third parties whose reasonable expectations might be frustrated if the proposal didn't have finality after 30 days in the absence of a notice requiring or requesting a hearing. While Pascol Engineering might have had an interest in the proposal being final in that event, it was given notice of the jurisdictional questions that were to be decided in this case and was invited to make written representations but declined to do so.

Disposition

In the circumstances, I make the following orders with respect to the jurisdictional questions that are before me:

- the Tribunal has the authority to extend the 30-day time period, under subsection 89(6) of the Act, for delivering a written notice requiring a hearing in this matter;
- that 30-day time period is waived, with the result that the written notice delivered by Mr. Munteanu, through his solicitors, to the Tribunal in a letter dated June 9, 2004 shall be treated as an adequate notice requiring a hearing in this matter for the purposes of subsection 89(6) of the Act.

I also order that the 30-day time limit for filing a Request for Hearing in this matter is extended, retroactively, to July 8, 2004, with the result that the Request for Hearing filed by Mr. Munteanu with the Tribunal on that date shall be treated as having been properly filed in accordance with the Rule 15.02 of the Tribunal's Rules of Practice and Procedure.

DATED at Toronto, Ontario this
29th day of November, 2004.

Colin H.H. McNairn,
Chair of the Tribunal






Ontario

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The Editor, *Pension Bulletin*
Financial Services Commission of Ontario,
5160 Yonge Street, 17th Floor
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North York, Ontario
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GENERAL ANNOUNCEMENTS

BRYAN DAVIES DEPARTS FROM FSCO

On June 30, 2005, Bryan Davies will conclude his term as CEO and Superintendent of Financial Services.

In his role as pension regulator, Mr. Davies served as the Ontario member and Vice-Chair of the Canadian Association of Pension Supervisory Authorities (CAPSA) from 2003 to 2005, and as a CAPSA representative to the Joint Forum of Financial Market Regulators. As Chair of the CAPSA Model Law Committee, Mr. Davies led the national consultations on the *Proposed Regulatory Principles for a Model Pension Law* in 2004.

An executive search is underway to find a successor.



Pension Division - Staff Changes

The Pension Policy Unit (PPU) welcomes Celia Harte as a Policy Analyst, effective March 7, 2005.



Partial Wind Ups Post-Monsanto

The current *Ontario Pension Benefits Act* (PBA), which came into force on January 1, 1988, requires the distribution of pension plan surplus on both full and partial wind up of a pension plan. This requirement was confirmed by the Supreme Court of Canada in its decision in *Monsanto Canada Inc. v. Superintendent of Financial Services*, released on July 29, 2004.

What the Decision Means

In Ontario, all pension plans that undertake a partial plan wind up must distribute any surplus that relates to the partial wind up group as part of the partial wind up process, as required by subsection 70(6) and the definition of “partial wind up” under section 1 of the PBA. The actual treatment of the surplus, including any surplus distribution, must be in accordance with the terms of the pension plan and the requirements of the PBA and Regulation 909 made under the PBA.

Current Status of Partial Wind Up Reports Already Filed

- Where the report stated there was no surplus at the effective date of the partial wind up, the filing was complete and any outstanding questions were resolved, Superintendent approval of the partial wind up report was granted. With the distribution of the assets, the partial wind up is complete.
- Where the report indicated a surplus at the effective date of the partial wind up and approval of the partial wind up report was granted, with the distribution of the assets, the partial wind up is complete.
- Where the report indicated a surplus at the effective date of the partial wind up and no proposal for the distribution of the surplus was filed or approved, the Superintendent did not approve the partial wind up report, but provided approval under subsection 70(3) of the PBA to distribute the basic benefits once all benefit-related issues were resolved. Further filings to update the partial wind up report and deal with the surplus related to the partial wind up group are required at this time. Letters providing details of the filings required will be mailed to the affected plan administrators by August 29, 2004. Any affected plan administrator who does not receive a letter should contact FSCO as provided below.
- Where a hearing before the Financial Services Tribunal in respect of a partial wind up has been on hold pending the outcome of the *Monsanto* appeal, the hearing may now proceed at the request of a party to the hearing.



Current Status of Related Pension Policies

In the period since the Supreme Court decided to hear the *Monsanto* appeal, FSCO has been reviewing all pension policies related to wind up, partial wind up and surplus. A list indicating the status of the policy review process will be available shortly. The first new policy to be issued will be S900-511, Application by Employer for Payment of Surplus on Partial Wind Up of a Pension Plan.

Contact Information

If you have questions or concerns, please contact:

Grant Ardern

Technical Consultant

Pension Plans Branch

Financial Services Commission of Ontario

5160 Yonge Street, 4th Floor

Box 85

North York ON M2N 6L9

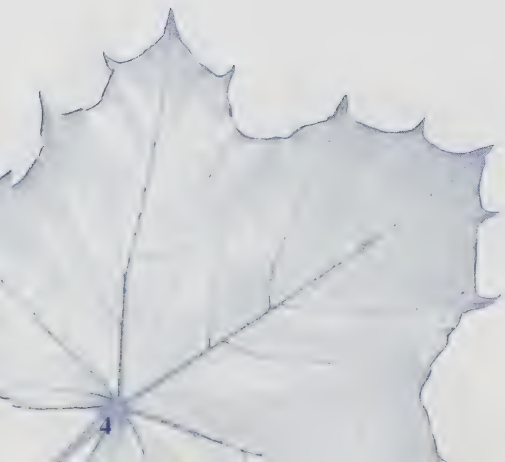
Telephone: 416-226-7788

Toll Free: 1-800-668-0128, ext. 7788

E-mail: gardern@fSCO.gov.on.ca

NOTE:

It is anticipated that this document will be updated from time to time as FSCO completes its analysis of the implications of the Supreme Court of Canada decision.



COURT/PROSECUTION MATTERS

The information set out below is current to March 17, 2005

Court Matters

I. National Steel Car Limited

The Superintendent consented to the transfer of assets from the Amended Pension Plan for Salaried Employees of National Steel Car Limited (the "Salaried Plan") to the Amended Pension Plan for Hourly Employees of National Steel Car Limited (the "Hourly Plan"). The Superintendent's consent was given after submissions opposing the transfer were made by some members of the Salaried Plan. The letter giving the consent stated that anyone dissatisfied with the consent could request a hearing before the Financial Services Tribunal (FST). A hearing was requested.

The FST held the hearing on January 15 to 17, 2002. On May 31, 2002, the FST released its decision. In response to a motion brought by National Steel Car at the hearing, a majority decision held that the FST has no jurisdiction to conduct a hearing where the Superintendent has consented to the transfer of assets, relying upon the express wording of subsection 89(4). The panel unanimously found that if there was jurisdiction, the Superintendent's consent would have been upheld, as surplus was not an "other benefit" to be considered under subsection 81(5) of the PBA.

The Salaried Plan members appealed this decision to the Divisional Court. The appeal was set to be heard on January 29 and 30, 2004, but was adjourned to September 13 and 14, 2004. The appeal was heard on these

dates. The Court allowed the appeal on the jurisdictional issue, indicating that reasons would be given later. The Court released its decision on December 1, 2004. The Court held:

- a) the standard of review that applied to this decision is the standard of reasonableness on the transfer issue, but correctness on the jurisdictional issue;
- b) there is implied jurisdiction for the FST to hold a hearing arising from the Superintendent's consent;
- c) the transfer did not contravene section 81 of the PBA; surplus is not an "other benefit"; even if surplus was an "other benefit", the terms of the salaried plan permitted a merger and this case was therefore distinguishable from *Transamerica v. ING*.

The Salaried Plan members filed a Notice of Motion for Leave to Appeal with the Court of Appeal on the transfer issue which was dismissed for delay on March 9, 2005.

II. Plumbers Local 463 Pension Plan

The board of trustees of the Plumbers Local 463 Pension Plan has filed an application for judicial review in respect of an order issued by the Superintendent on October 6, 2003 requiring the trustees to pay the cost of an examination of the Plan out of the fund for the Plan. No hearing date has been set.

III. Donohue Forest Products Inc.

The spouse of a deceased plan member

has requested a hearing with respect to an NOP issued by the Superintendent on November 8, 2002 which refused to order the plan administrator to recalculate the pre-retirement death benefit owing. The pre-hearing conference was held on February 27, 2003 and continued on April 4, 2003 and on May 12, 2003, at which time a motion respecting 69 interrogatories made by the applicant was also heard and dismissed. The hearing took place July 2, 2003 and September 22 and 25, 2003. The panel released its decision on January 9, 2004, finding that the NOP should be affirmed.

The applicant filed a Notice of Appeal with the Divisional Court. The appeal was heard on November 10, 2004. The Court released its decision on November 10, 2004 dismissing the appeal.

The applicant has filed a Notice of Motion for Leave to Appeal with the Court of Appeal.

IV. Kerry (Canada) Inc.

The FST conducted a hearing that arose from a Notice of Proposal in which the Superintendent proposed to order Kerry (Canada) Inc. to reimburse certain expenses paid from the pension fund and to amend its Pension Plan so that only expenses for the exclusive benefit of the members could be paid from the fund.

The FST released its decision on March 4, 2004. The FST held that certain expenses were to be reimbursed to the fund, while certain other expenses did not have to be reimbursed as they were incurred for the exclusive benefit of the members. The FST also held that there was no jurisdiction under the PBA for the

Superintendent to order a plan amended. A group of former members comprising the DCA Employees Pension Committee for the Pension Plan for the Employees of Kerry (Canada) Inc. has appealed the FST's decision to the Divisional Court.

In a separate decision on the refusal issue, the panel held that contribution holidays were permitted and authorized by the trust, and that there were no grounds for a partial windup or for an order compelling the Superintendent to monitor the plan. The panel held that the conversion breached the trust insofar as the revised plan text allowed surplus from the defined benefit portion of the plan to be used to fund liabilities for the defined contribution portion, as this diverted funds to the insurance contract with Standard Life. The panel directed the employer to either amend the plan text or transfer the defined contribution funds to the trustee; if this is not done within 90 days, the Superintendent is to refuse registration of the revised plan text.

Finally, the panel issued a separate decision concerning the members' committee's request that the legal costs incurred by the committee be paid out of the fund for the Plan. The majority of the panel determined that the FST did not have the jurisdiction to make such an order and also rejected the committee's request that costs be awarded against the employer.

In a separate Notice of Appeal, the members' committee has also appealed the panel's decision on the refusal and costs issues to the Divisional Court.

Both the appeal on the expenses issue and on the refusal and costs issues are set to be heard by the Divisional Court on March 31, 2005 and April 1, 2005.

V. Participating Co-Operatives of Ontario Trustee Pension Plan

The board of trustees of the Participating Co-Operatives of Ontario Trustee Pension Plan filed an application before the Divisional Court under Rule 14 of the Rules of Civil Procedure, the *Pension Benefits Act* and the *Trustees Act* for the appointment of replacement trustees or an administrator and a declaration discharging the current Trustees. The application was initially scheduled to be heard on February 3, 2005 but was rescheduled to February 8, 2005 at which time the hearing was adjourned pending a settlement conference.

VI. Vivendi Universal Inc.

Vivendi Universal Inc. has filed an application with the Ontario Superior Court of Justice for a declaration that the Québec *Supplementary Pension Plans Act* does not compel Vivendi to transfer surplus on behalf of Québec members on an asset transfer to Diageo Canada Inc. The application also asks for a declaration that the *PBA* applies to the transfer.

The Régie des Rentes du Québec has brought a motion to have Vivendi's application dismissed on jurisdictional grounds. The motion was heard by the Ontario Superior Court on March 2, 2005. The court reserved its decision.

PROSECUTION MATTERS

I. Mutual/Hadwen Imaging Technologies Inc.

Charges were laid against the employer, successor employer and two corporate officers for the employer and successor employer for failing to remit employer and employee contributions. The first appearance occurred on April 14, 2004 at which time a trial was scheduled for January 17 to 21, 2005. On January 17, 2005, the two corporate defendants pleaded guilty to one count of failing to remit employee contributions and were fined \$2,500 each exclusive of the Victim Fine Surcharge. All other charges were withdrawn.

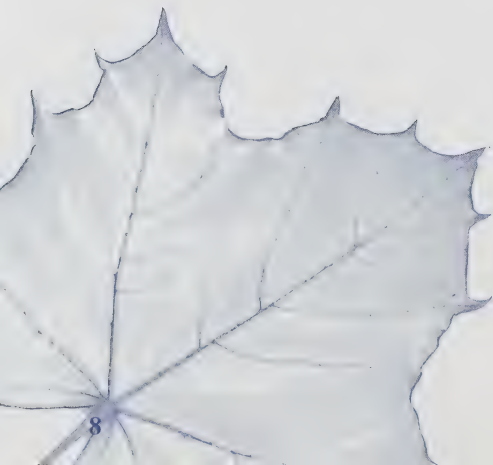
II. Flowserve Canada Inc.

The corporation has been charged, as the administrator of the Flowserve Canada Retirement Plan, with failing to file Pension Plan Financial Statements for the fiscal years ending 2000 and 2003, failing to file the Annual Information Return for the fiscal years ending 2000, 2001 and 2003 and failing to pay the filing fees for the Annual Information Return for the fiscal years ending 2000, 2001, 2002 and 2003. The first appearance was on February 9, 2005. The next appearance in court is on April 12, 2005.

III. Global Crossing Conferencing - Canada Ltd.

The corporation has been charged, as the administrator of the Employee Retirement Plan for Global Crossing Conferencing - Canada Ltd., with failing to file Pension Plan Financial Statements for the fiscal years ending 2001, 2002 and 2003, failing to

file the Annual Information Return for the fiscal years ending 2001, 2002 and 2003 and failing to pay the filing fees for the Annual Information Return for the fiscal years ending 1995, 2001, 2002 and 2003. The first appearance was on February when the matter was adjourned to April 6, 2005.



LEGISLATIVE CHANGES/REGULATORY POLICIES

Note: Pension policy L200-401 as published at page 9 of the January 2005 Pension Bulletin (Volume 14, Issue 1) contained errors in the fourth column of the chart on the second page of the policy. The correct version of L200-401 is set out below and can also be found on the Financial Services Commission of Ontario's website at: www.fSCO.gov.on.ca.

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Locked-In Accounts
INDEX NO.:	L200-401
TITLE:	2005 LIF Maximum Payment Amount Table
APPROVED BY:	Deputy Superintendent, Pensions
PUBLISHED:	FSCO website (December 2004)
EFFECTIVE DATE:	January 1, 2005

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

The table on the following page has been prepared by the Financial Services Commission of Ontario (FSCO). Additional copies of this table and copies of policies published by FSCO about the Ontario LIF are available on FSCO's website at: www.fSCO.gov.on.ca, or may be picked up in person at the reception desk, 4th Floor, 5160 Yonge Street, North York, Ontario.

Interest assumptions used in the table on the following page:

- (1) 6.00%, which represents the greater of the CANSIM B14013 rate for November 2004 (4.87%) and 6.00% for the first 15 years, and
- (2) 6.00% for the years remaining to the end of the year in which the LIF owner attains 90 years of age. (Assumption to age 90 is for the purpose of maximum payment calculation only. The balance of a LIF must be used to purchase a life annuity by the end of the year in which the LIF owner attains 80 years of age.)

Percentages shown must be prorated for the initial fiscal year if less than twelve months. Part of a month is treated as a full month.

2005 Maximum Annual Payment Amount Table for an Ontario Life Income Fund (LIF)

Age at January 1, 2005	New Age During 2005	Years to End of Year Age 90 is Attained	Maximum Payment as a Percentage of the LIF Balance as at January 1, 2005*
48	49	42	6.19655%
49	50	41	6.23197%
50	51	40	6.26996%
51	52	39	6.31073%
52	53	38	6.35454%
53	54	37	6.40164%
54	55	36	6.45234%
55	56	35	6.50697%
56	57	34	6.56589%
57	58	33	6.62952%
58	59	32	6.69833%
59	60	31	6.77285%
60	61	30	6.85367%
61	62	29	6.94147%
62	63	28	7.03703%
63	64	27	7.14124%
64	65	26	7.25513%
65	66	25	7.37988%
66	67	24	7.51689%
67	68	23	7.66778%
68	69	22	7.83449%
69	70	21	8.01930%
70	71	20	8.22496%
71	72	19	8.45480%
72	73	18	8.71288%
73	74	17	9.00423%
74	75	16	9.33511%
75	76	15	9.71347%
76	77	14	10.14952%
77	78	13	10.65661%
78	79	12	11.25255%
79	80	11	11.96160%

- The maximum annual payment percentage is calculated on the basis of a twelve-month fiscal year to December 31, 2005 using the interest assumptions on the previous page.

Budget Measures Act (Fall), 2004 (Bill 149)

On December 16, 2004, the *Budget Measures Act (Fall), 2004* (Bill 149) amended a number of provisions under the *Pension Benefits Act* (PBA) to update references in those PBA provisions to the “*Labour Relations Act, 1995*”, the “*Employment Standards Act, 2000*”, the “Minister of Finance” and the use of “regular mail”.

ONTARIO REGULATION 386/04

On December 10, 2004, Ontario Regulation 386/04 was filed under the *Pension Benefits Act* (PBA) to make the following amendments to Regulation 909 under the PBA (all section references below are to the relevant section of Regulation 909):

Surplus sharing regulation (s. 8) - The application of subsections 8(1) and 8(2) of Regulation 909 (requiring an employer to obtain the consent of pension plan members and certain other plan beneficiaries before being paid surplus on full or partial plan wind up) has been extended to December 31, 2006.

Commuted value calculation standard (ss. 19, 29) - Effective February 1, 2005, pension plans are required to use the new *Standard of Practice for Determining Pension Commuted Values* issued by the Canadian Institute of Actuaries (CIA) with an effective date of February 1, 2005. The new standard replaces the previous standard issued by the CIA with an effective date of September 1, 1993.

Deadline for making DC plan contributions (s. 4) - The deadline for employers to make contributions to defined contribution pension plans (i.e., within 30 days after the month for which the contributions are payable) has been clarified.

Deadline for filing a new plan's first actuarial valuation report (s. 13) - The deadline for filing a newly established defined benefit pension plan's first actuarial funding valuation report has been changed to 90 days (from the previous 60 day deadline).

Definition of “valuation date” for marriage breakdown purposes (s. 56) - The meaning of the words “valuation date” for the purposes of section 56 (which relates to the division of pension benefits on marriage breakdown) is clarified to mean the valuation date as defined in subsection 4(1) of the *Family Law Act* for family property division purposes.

Updated name references (ss. 22.2, 28, 28.1, 47) - The names of a number of statutes, pension plans and government organizations referenced in Regulation 909 are updated to reflect their current names.

Outdated prescribed Form 4 revoked - An old prescribed form, which had been replaced but had continued to be a formal part of Regulation 909, has been deleted from Regulation 909. The current version of Form 4 (Waiver of Pre-retirement Death Benefit), as approved by the Superintendent of Financial Services, is available on the Financial Services Commission of Ontario's website at: www.fsco.gov.on.ca.



Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Administrative Expenses
INDEX NO.:	A200-802
TITLE:	Costs for Wind Up and Surplus Applications - PBA ss. 10(1)9 and 22(11)
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (March 22, 2005)
EFFECTIVE DATE:	March 22, 2005
REPLACES:	A200-801

This policy replaces A200-801 ("Costs for Wind Up and Surplus Applications") as of the effective date of this policy.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

When costs are incurred in preparing wind up and surplus refund applications, can these expenses be paid from the pension fund?

Paragraph 9 of subsection 10(1) of the PBA requires that the documents that create and support a pension plan include "the mechanism for payment of the cost of administration of the pension plan and pension fund". Subsection 22(11) of the PBA limits the payment of expenses from the pension fund to agents to "the usual and reasonable fees and expenses for the services provided by the agent in respect of the pension plan".

In the case of a wind up, the payment of expenses from the pension fund is governed by the language of the pension plan text, including any applicable trust documents.

In the case of a surplus refund application, the payment of expenses associated with the surplus application is considered as a payment to the employer. FSCO's policy is to require full disclosure in the surplus sharing agreement of all arrangements pertaining to the application for and distribution of surplus, including the use of any surplus to pay the expenses associated with the surplus application.

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION: Benefits

INDEX NO.: B100-110

TITLE: Consent Benefits Where Amount of Benefit Not Determinable
- PBA ss. 10(1)7, 40(3), 74(7)
- Regulation 909 s. 1(2)

APPROVED BY: Superintendent of Financial Services

PUBLISHED: FSCO website (February 2005)

EFFECTIVE DATE: March 1, 2005

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

Can a pension plan provide a consent benefit where the amount of the benefit is at the discretion of the employer?

No. All consent benefits provided by a pension plan must be determinable.

Paragraph 10(1)7 of the PBA requires that the method of determining benefits payable under a pension plan be set out in the documents that create and support the pension plan. This applies to all benefits, including those where the employer's consent is required to receive an ancillary benefit (i.e., a consent benefit). Accordingly, any plan provision that sets out a consent benefit where the amount of the benefit is at the discretion of the employer is inconsistent with paragraph 10(1)7 of the PBA. Such a provision must be amended to clearly set out the method of determining the benefit payable. If such a provision is not amended, the administrator of the plan should sever the provision or read it out of the plan.

Should the employer wish to provide an enhancement to selected individuals based on the previous wording of the provision, the method of determining the enhanced benefit must be set out in an amendment to the plan, taking into account policy B100-251("Amendments for Benefit Improvements-Notice and Funding, PBA, R.S.O. 1990, ss. 26(1)").

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Surplus
INDEX NO.:	S900-401
TITLE:	Partial Wind Up - Identification and Administration of Surplus - PBA ss. 70(1)(c) and 70(6) - Regulation 909 ss. 8(1) and 28.1
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (March 22, 2005)
EFFECTIVE DATE:	March 22, 2005
REPLACES:	S900-400

This policy replaces S900-400 ("Partial Wind Up - Identification and Administration of Surplus, Compliance with PBA, 1990 ss. 70(6)") as of the effective date of this policy.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

Subsection 70(6) of the PBA states:

On the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up.

It is FSCO's position, as confirmed by the Supreme Court of Canada in *Monsanto v. Ontario (Superintendent of Financial Services)*, that the rights and benefits referred to in subsection 70(6) of the PBA include any right to surplus assets that would exist had a full wind up of the pension plan occurred on the date of the partial wind up.

Assets in the wound up portion of the pension plan

Clause 70(1)(c) of the PBA requires that the administrator of a plan that is to be wound up in whole or in part file a wind up report that sets out "the methods of allocating and distributing

the assets of the pension plan and determining the priorities for payment of benefits". Furthermore, subsection 15(1) of the Regulation requires that the report under section 70 of the PBA must be prepared by an actuary. Accordingly, on partial wind up, it is the actuary's responsibility to identify assets related to the wound up portion of the plan. Where, in accordance with subsection 15(2) of the Regulation, the report is not prepared by an actuary, the party preparing the report must identify the assets related to the wound up portion of the plan.

The determination of the amount of assets related to a partial wind up must be done on a basis that is appropriate in the circumstances and must comply with the PBA and the Regulation, and have regard for any relevant FSCO policies, procedures and administrative practices. It is not acceptable to identify the assets in the wound up portion of the plan as those equal only to the partial wind up liabilities.

Administration of Assets

The split of the assets of the plan into two distinct pieces, the wound up portion and the on-going portion, may be either actual or notional. Where the plan administrator puts the assets related to the wound up portion of the plan in a separate trust, or segregates the assets within a master trust, an actual split is said to occur. Where the assets remain in a single trust, but separate sub-accounts are set up within the trust or separate tracking of the assets is set up for the wound up and on-going portions of the plan, a notional split is said to occur. Once the actual or notional split is complete, the plan administrator should review the suitability of the investments with regard to the assets of each portion and, where necessary, update the statement of investment policies and procedures to allow for any changes which follow from the review.

Distribution of the assets related to a partial wind up must conform with the proposals set out in the partial wind up report approved by the Superintendent of Financial Services. A supplement to a partial wind up report will be required if the surplus distribution proposals are not reflected in the initial partial wind up report. The partial wind up is complete only when all assets of the wound up portion of the plan have been distributed.



Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION: Surplus

INDEX NO.: S900-503

TITLE: Surplus Distribution - The Role of Legal Counsel in Obtaining Written Consent - Regulation 909 s. 8

PUBLISHED: Bulletin 6/2 (Summer 1995)

EFFECTIVE DATE: June 26, 1995 [references updated - February 2005]

Note: This policy is supplemental to S900-510 and S-900-511, which replaced S900-509 effective September 30, 2004.

The Role of Legal Counsel in Obtaining Written Consent Pursuant to Section 8 of Regulation 909

When some or all of the members, former members and other persons affected by a surplus withdrawal application are represented by legal counsel, they may choose to have their legal counsel negotiate an acceptable distribution. This administrative practice governs such situations.

Instead of receiving individual notice of the surplus application under subsection 78(2), those represented by legal counsel may instruct the administrator, through counsel or otherwise, to transmit the notice of application and surplus distribution proposal to their legal counsel. They may also authorize counsel to consent to a surplus distribution proposal on their behalf. This administrative practice does not establish guidelines respecting the scope of a legal counsel's authority to act on behalf of clients. However, if counsel purports to represent individuals entitled to share in a surplus distribution, the Superintendent of Financial Services will require counsel to provide the Superintendent with an affidavit setting out the following:

- the names of the persons represented by legal counsel including a description of their status in the pension plan (i.e., member, former member, other person);
- legal counsel's role in obtaining written consent (e.g., negotiate or negotiate and consent);
- where applicable, that the clients instructed the administrator to transmit notice of the application and the surplus distribution proposal to their legal counsel; and
- where applicable, that the clients of the legal counsel authorized the legal counsel to consent to the surplus distribution proposal on their behalf.

SUPERINTENDENT OF FINANCIAL SERVICES

Administrator Appointments - Section 71 of the *Pension Benefits Act*

1. Morneau Sobeco as the Administrator of the Pension Plan For Hourly Employees Retirement Plan J of Chun King Canada Ltd. (Registration Number 0597450), effective immediately.

DATED at Toronto, Ontario, this 28th day of October, 2004

2. PricewaterhouseCoopers as the Administrator of the Pension Plan for Hourly-Paid Employees of Dunlop (Canada) Inc. (Registration Number 0375048), effective immediately.

DATED at Toronto, Ontario, this 18th of February, 2005.

Notices of Proposal to Make an Order

IN THE MATTER OF *the Pension Benefits Act*, R.S.O. 1990, c.P.8, as amended (the "Act");

AND IN THE MATTER OF *a Proposal by the Superintendent of Financial Services to make an Order under section 69 of the Act*, in respect of the **Retirement Plan for Salaried Employees of Famous Players Limited and Subsidiary and Affiliated Companies, Registration Number 552752** (the "Plan");

TO: **Paramount Pictures (Canada) Inc.**
c/o Viacom Inc.
1515 Broadway Avenue
45th Floor
New York City, New York
10036-5794 USA

Attention: Betty Panarella
Vice President,
Development and
Employee Relations.
**Employer and Administrator
of the Plan**

AND TO: **Blake, Cassels & Graydon LLP
Barristers & Solicitors**
Box 25 Commerce Court West
199 Bay Street
Toronto, Ontario, Canada
MSL 1A9

Attention: Caroline L. Helbronner
**Lawyers for the Employer
and Administrator.**

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under section 69 (1)(a) of the *Act* that the Plan be wound up in whole effective December 31, 2001.

REASONS FOR THE PROPOSED ORDER:

1. Paramount Pictures (Canada) Inc. (the "Employer") is the employer and administrator of the Plan.
2. On May 23, 2001, notices were sent to the members of the Plan regarding the Employer's proposal to terminate the Plan and share the surplus in the Plan with the members. Notices were issued to 141 former employees entitled to a deferred pension, retirees receiving pension payments and other persons entitled to payments under the Plan.
3. The Actuarial Report for the Plan as at December 31, 2001 (the "Report") states that as at December 31, 2001 there were 132 pensioners, beneficiaries and vested former members. The Report also states that there were no active members and the employer was not required to make contributions to the pension fund.
4. As at May 23, 2001, there was a cessation or suspension of employer contributions to the pension fund under section 69(1)(a) of the *Act*.
5. Such further and other reasons that may come to my attention.

YOU are entitled to a hearing by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act*, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal

a written notice that you require a hearing.¹
Any notice requiring a hearing shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

THE ADMINISTRATOR IS REQUIRED pursuant to subsection 89(5) of the *Act*, to transmit a copy of this Notice of Proposal to Make an Order to the following persons: all former members of the Plan as at May 23, 2001.

DATED at North York, Ontario this 3rd day of December, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE – PURSUANT TO section 112 of the *Act*, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the Act);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the Act consenting to a payment out of the Pension Plan for Employees of Kingsley & Keith (Canada) Inc., Registration No. 559443.

TO: 2419742 Canada Inc. (formerly Kingsley and Keith (Canada) Inc.)
C/O PMC Inc. and Subsidiaries
12243 Branford Street
Sun Valley CA
USA 91352

Attention: Ms. Tina Toy
Attorney
Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the Act, consenting to the payment, out of the Pension Plan for Employees of Kingsley & Keith (Canada) Inc., Registration No. 559443 (the Plan), to **2419742 Canada Inc.** in the amount of \$597,551 as at February 1, 2000 plus investment earnings to the date of the payment less any allowance for related expenses.

I PROPOSE TO MAKE THE ORDER effective only after the Applicant satisfies me that any payments to which members, former members and any other persons are entitled to have been made or otherwise provided for.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS :

1. 2419742 Canada Inc. is the employer as defined in the Plan (the Employer).
2. The Plan was wound up effective February 1, 2000.
3. As at February 1, 2000, the surplus in the Plan was estimated at \$1,195,102.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan.
5. The application discloses that by written agreement made by the Employer, and all of the active members and other members (as defined in the application) and all of the former members and other persons entitled to payments, the surplus in the Plan at the date of payment, after deduction of wind up expenses is to be distributed:
 - a) 50% to the Employer; and
 - b) 50% to the beneficiaries of the Plan as defined in the Surplus Distribution Agreement.
6. The Employer has applied, pursuant to section 78 of the Act, and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 50% of the surplus in the Plan after adding any investment earnings to the date of the payments and deducting the expenses related to the wind up of the Plan.
7. The application appears to comply with section 78 and subsection 79(3)(a) & (b) of the Act and with clause 8(1)(b) and subsections 28(5) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to subsection 89(6) of the Act if,

within thirty (30) days after this Notice of Proposal is served¹ on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing must be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York ON M2N 6L9

Attn: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 11th day of January, 2005

K. David Gordon
Deputy Superintendent, Pensions

Donna Wolfe, Cowan Wright Beauchamp
Limited

¹ NOTE – PURSUANT to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Deputy Superintendent, Pensions to Make an Order under section 69 of the Act relating to the **Non-Contributory Retirement Plan for Salaried Employees of Ford-Smith Machine Company Limited**, Registration Number 288845 (the "Plan").

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: David R. Kearney, Senior
Consultant
Administrator

AND TO: **Ford-Smith Machine Company Limited.**
901 Arvin Avenue
Stoney Creek ON L8E 5N9

Attention: Brian Thwaites
Employer

AND TO: **Grant Thornton Limited**
19th Floor, South Tower
Royal Bank Plaza
200 Bay Street, Box 55
Toronto ON M5J 2P9

Attention: Mr. Jake Weibe
Interim Receiver

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER in respect of the Plan under section 69(1) of the Act.

PROPOSED ORDER:

That the Plan be wholly wound up effective May 16, 2003 through July 18, 2003.

REASONS:

1. A significant number of members have ceased to be employed by the employer as the result of the discontinuance or reorganization of all or part of business of the employer pursuant to clause 69(1)(d) of the Act.
2. All or a significant part of the business has been discontinued at a specific location, pursuant to clause 69(1)(e) of the Act.
3. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the Act. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY MAKE THE ORDER PROPOSED IN THIS NOTICE.

DATED at North York , Ontario, this 20th day of January, 2005.

K. David Gordon
Deputy Superintendent, Pensions

1 NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the Act);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the Act consenting to a payment out of the Retirement Plan for The Employees of The Canadian Gas Association, Registration No. 0233155.

TO: **Canadian Gas Association**
350 Sparks Street
Suite 809
Ottawa, ON K1R 7S8

Attention: Michael Cleland
President and CEO
Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER

under s. 78(1) of the Act, consenting to the payment, out of the Retirement Plan for The Employees of The Canadian Gas Association, Registration No.0233155 (the Plan), to **Canadian Gas Association** in the amount of \$427,850 as at February 28, 2003, plus adjustments for investment returns and expenses thereto.

I PROPOSE TO MAKE THE ORDER

effective only after the Applicant satisfies me that all benefits, benefit enhancements (including benefits and benefit enhancements pursuant to the Surplus Distribution Agreement set out in paragraph #5 below) and any other payments to which the members, former members, and any other persons entitled to such payments have been paid, purchased, or otherwise provided for.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS :

1. Canadian Gas Association is the employer as defined in the Plan (the Employer)
2. The Plan was wound up, effective February 28, 2003
3. As at February 28, 2003 the surplus in the Plan was estimated at \$855,700.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan
5. The application discloses that by written agreement made by the Employer, and 85% of the active members and 86% of the former members and other persons entitled to payments, the surplus in the Plan at the date of payment, after deduction of expenses is to be distributed:
 - a) 50% to the Employer; and
 - b) 50% to the beneficiaries of the Plan as defined in the Surplus Distribution Agreement.
6. The Employer has applied, pursuant to section 78 of the Act, and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 50% of the surplus in the Plan (after adding 50% of investment earnings and deducting 50% of the expenses related to the wind up of the Plan.)
7. The application appears to comply with section 78 and subsection 79(3) (a) & (b) of the Act and with clause 8(1)(b) and subsections 28(3), 28(5.1) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to subsection 89(6) of the Act if,

within thirty (30) days after this Notice of Proposal is served¹ on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing must be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 11th day of February, 2005

K. David Gordon
Deputy Superintendent, Pensions

Ms. Attila Bimbo

Mr. Edward Patkay

Mr. Marc Vigneault, Standard Life
Assurance Company

¹ NOTE – PURSUANT to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.



Notices of Proposal to Make a Declaration

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the *Act* relating to the **Pension Plan for the Hourly Employees of Magnetek Polygon Transformer Co., a division of Magnetek National Electric Coil Limited, Registration Number 996942** (the "*Plan*").

TO: **Aon Consulting**
Suite 500
145 Wellington Street West
Toronto ON M5J 1H8

Attention: Mr. Frank Lee, FSA, FCIA
Administrator

AND TO: **National Electric Coil**
50 Northline Road
North York ON M4B 3E2

Attention: Mr. Jim Gray, General Manager
Employer

AND TO: **Canadian Union of Operating Engineers & General Workers**
2087 Dundas Street East, Unit 103
Mississauga ON L4X 2V7

Attention: Mr. Grgar Zoran
Union Representative

AND TO: **Doane Raymond Limited**
PO Box 55
Royal Bank Plaza, Suite 1100,
North Tower
Toronto ON M5J 2P9

Attention: **Mr. Ray Godbold**
Trustee in Bankruptcy
of Polygon Transformer Inc.

NOTICE OF PROPOSAL TO MAKE A DECLARATION

WHEREAS:

1. The Pension Plan for the Hourly Employees of Magnetek Polygon Transformer Co., a division of Magnetek National Electric Coil Limited (the "*Plan*") is registered under the *Act* as Registration Number 996942; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "*Guarantee Fund*") by the *Act* or the regulations made thereunder; and
3. On January 1, 1994 the Company ceased contributing to the Plan; and
4. Magnetek Polygon Transformer Co. and its successor company, Polygon Transformer Inc., no longer exist, the latter entering into bankruptcy in April 1995; and
5. The Superintendent of Financial Services appointed MLH&A (now Aon Consulting Inc.) administrator of the Plan on October 20, 1995; and
6. On January 20, 2003 the Director, Pension Plans Branch, issued an order that the Plan be wound up effective December 31, 1993; and
7. On October 13, 2004 the administrator filed a wind up report for the Plan together with an application for a Declaration that the Guarantee Fund applies to the Plan; and
8. The administrator's preliminary estimate of the deficit in the Plan as at December



- 31, 1993 is \$24,149 with a wind up funded ratio of 64.14%, and an estimated claim against the Guarantee Fund of \$14,160; and
9. The administrator's estimate of the claim against the Guarantee Fund as at December 31, 2003 is \$81,945;

NOW THEREFORE TAKE NOTICE I PROPOSE TO CONSIDER MAKING A DECLARATION in respect of the Plan under section 83 of the *Act* that the Guarantee Fund applies to the Plan for the following reasons:

REASONS FOR THE PROPOSED DECLARATION:

1. Magnetek Polygon Transformer Co. no longer exists.
2. The administrator has estimated the wind up funded ratio of the Plan to be 64.14%.
3. The estimated claim against the Guarantee Fund as at the wind up date is \$14,160, increasing to an estimated \$81,945 when projected forward to December 31, 2003.
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.
5. Such further reasons as may come to my attention.

YOU are entitled to a hearing by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act*, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario this 20th day of December, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Pension Plan for Employees of Outboard Marine Corporation of Canada Ltd.** Registration Number 232967.

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Mr. David R. Kearney, Senior Consultant
Appointed Administrator of the Plan

AND TO: **Outboard Marine Corporation of Canada Ltd.**
100 Sea-Horse Drive
Waukegan IL 60085

Attention: Ms. Darlene Lomax, Manager Benefits Administration
Employer

AND TO: **Ernst & Young**
35 Metcalfe Street, Suite 1600
Ottawa ON K1P 6L5

Attention: Mr. Greg Adams
Disbursement Receiver

NOTICE OF PROPOSAL TO MAKE A DECLARATION

WHEREAS:

1. The Pension Plan for Employees of Outboard Marine Corporation of Canada Ltd., (the "Plan"), is registered under the Act as Registration Number 232967; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Superintendent of Financial Services appointed Morneau Sobeco administrator of the Plan on July 11, 2002; and
4. On December 11, 2003, the Superintendent of Financial Services issued an Order that the Plan was to be wound up effective August 1, 2000 through December 20, 2000; and
5. The administrator filed a wind up report for the Plan effective December 20, 2000, disclosing a surplus of \$398,600 at the wind up date, and a projected deficiency of \$216,300 as at May 1, 2004; and
6. On October 29, 2004 the said wind up report was approved by the Superintendent of Financial Services; and
7. On December 1, 2004 the administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan, based on the said wind up report;

NOW THEREFORE TAKE NOTICE I PROPOSE TO CONSIDER MAKING A DECLARATION in respect of the Plan under section 83 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

**REASONS FOR THE PROPOSED DECLARATION:**

1. There is a potential claim against the Guarantee Fund based on the deficiency of \$216,300 in the Plan as at May 1, 2004.
2. The employer, Outboard Marine Corporation of Canada Ltd., was ordered into receivership on November 20, 2001.
3. The administrator has been advised that there is unlikely to be any distribution of funds from the Estate of Outboard Marine Corporation of Canada Ltd. to the Plan.
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.
5. If funds become available for the Plan from the Estate of Outboard Marine Corporation of Canada Ltd., the administrator will be required to make an appropriate refund of any allocation amounts received by the Plan from the Guarantee Fund.
6. Such further reasons as may come to my attention.

YOU are entitled to a hearing by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario this 6th day of January, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Retirement Plan for Employees of Outboard Marine Corporation of Canada Ltd.** Registration Number 232975;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Mr. David R. Kearney, Senior Consultant
Appointed Administrator of the Plan

AND TO: **Outboard Marine Corporation of Canada Ltd.**
100 Sea-Horse Drive
Waukegan IL 60085

Attention: Ms. Darlene Lomax
Manager Benefits Administration
Employer

AND TO: Ernst & Young
35 Metcalfe Street, Suite 1600
Ottawa ON K1P 6L5

Attention: Mr. Greg Adams
Disbursement Receiver

NOTICE OF PROPOSAL TO MAKE A DECLARATION

WHEREAS:

1. The Retirement Plan for Employees of Outboard Marine Corporation of Canada Ltd., (the "Plan"), is registered under the Act as Registration Number 232975; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Superintendent of Financial Services appointed Morneau Sobeco administrator of the Plan on July 11, 2002; and
4. On December 17, 2003, the Superintendent of Financial Services issued an Order that the Plan was to be wound up effective August 1, 2000 through April 9, 2001; and
5. The administrator filed a wind up report for the Plan effective April 9, 2001, disclosing a surplus of \$562,500 at the wind up date, and a projected deficiency of \$505,300 as at May 1, 2004; and
6. On October 29, 2004 the said wind up report was approved by the Superintendent of Financial Services; and
7. On December 1, 2004 the administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan, based on the said wind up report;

NOW THEREFORE TAKE NOTICE I PROPOSE TO CONSIDER MAKING A DECLARATION in respect of the Plan under section 83 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

REASONS FOR THE PROPOSED DECLARATION:

1. There is a potential claim against the Guarantee Fund based on the deficiency of \$505,300 in the Plan as at May 1, 2004.
2. The employer, Outboard Marine Corporation of Canada Ltd., was ordered into receivership on November 20, 2001.
3. The administrator has been advised that there is unlikely to be any distribution of funds from the Estate of Outboard Marine Corporation of Canada Ltd. to the Plan.
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.
5. If funds become available for the Plan from the Estate of Outboard Marine Corporation of Canada Ltd., the administrator will be required to make an appropriate refund of any allocation amounts received by the Plan from the Guarantee Fund.
6. Such further reasons as may come to my attention.

YOU are entitled to a hearing by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York, Ontario M2N 6L9

Attention: The Registrar

¹ NOTE - PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario this 6th day of January, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Pension Plan for Hourly Employees of Ford-Smith Machine Company Limited, Registration Number 541565** (the "Plan").

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: David R. Kearney,
Senior Consultant
Administrator

AND TO: **Ford-Smith Machine Company Limited.**
901 Arvin Avenue
Stoney Creek ON L8E 5N9

Attention: Brian Thwaites
Employer

AND TO: **Grant Thornton Limited**
19th Floor, South Tower
Royal Bank Plaza
200 Bay Street, Box 55
Toronto ON M5J 2P9

Attention: Mr. Jake Weibe
Interim Receiver

AND TO: **United Steelworkers of America, Local 4843**
1031 Barton Street East
Hamilton ON L8L 3E3

Attention: Roy Leslie
Union Representative for the members of the Plan

NOTICE OF PROPOSAL TO MAKE A DECLARATION

WHEREAS:

1. The Pension Plan for Hourly Employees of Ford-Smith Machine Company Limited ("Ford-Smith"), is registered under the Act as Registration Number 541565 (the "Plan"); and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. On July 2, 2003 the Ontario Supreme Court of Justice appointed Grant Thornton Limited interim receiver for the employer; and
4. On July 2, 2003 all of the employees of the employer were terminated; and
5. On September 8, 2003 the Interim Receiver advised FSCO that the Ford-Smith business had not been sold and that all of the assets of Ford-Smith had been liquidated through public auction; and
6. The Superintendent of Financial Services appointed Morneau Sobeco administrator of the Plan on February 2, 2004; and
7. The appointed administrator of the Plan does not anticipate any recovery from the Plan from the said liquidation; and
8. On August 19, 2004 the administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan; and
9. An actuarial opinion submitted with the application revealed that as of April 1, 2004 there were insufficient assets in the Plan to

cover the liabilities of the Plan determined on a wind up basis; and

10. On December 17, 2004 the administrator filed an application to the Superintendent to make an order that the Plan be wound up effective July 2, 2003 for members whose employment terminated during the period December 3, 2001 to July 2, 2003; and
11. On January 20, 2005 the Deputy Superintendent, Pensions, issued a notice of proposal to make an Order that the Plan be wound up effective December 3, 2001 through July 2, 2003;

NOW THEREFORE TAKE NOTICE I PROPOSE TO CONSIDER MAKING A DECLARATION in respect of the Plan under section 83 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

REASONS FOR THE PROPOSED DECLARATION:

1. The Employer, Ford-Smith Machine Company Limited, no longer exists; has had its assets liquidated by the Interim Receiver to pay its secured creditors; and the Plan is to be wound up.
2. The administrator has estimated that there are insufficient assets in the Plan to cover the wind up liabilities of the Plan as at April 1, 2004.
3. The administrator does not expect there will any recovery from the estate or the liquidated assets of the Employer to meet any or all of the deficit in the Plan.
4. There are reasonable and probable grounds for concluding that the funding

requirements of the Act and regulation cannot be satisfied.

5. Such further reasons as may come to my attention.

YOU are entitled to a hearing by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario this 31st day of January, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28;

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services (the "Superintendent") to make a Declaration under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28, respecting the **Slater Steel Inc. Pension Plan for Corporate Employees and Salaried Employees of Hamilton Specialty Bar Division, Registration Number 0308338 (the "Pension Plan")**;

TO: **Morneau Sobeco (Regulatory Services) Inc.**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David Kearney
Principal
Administrator of the Pension Plan

AND TO: **Slater Steel Inc. Hamilton**
Specialty Bar Division
PO Box 2943 Hamilton,
Stn. LCD 1
319 Sherman Avenue North
Hamilton ON L8N 3P9

Attention: Peter Melnick
Controller
Employer

AND TO: **PricewaterhouseCoopers Inc.**
145 King Street West
Toronto ON M5H 1V8

Attention: Jeff Rosenberg
Receiver for Slater Steel Inc.

NOTICE OF PROPOSAL TO MAKE A DECLARATION

WHEREAS:

1. The Pension Plan is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. Slater Steel Inc. issued a notice pursuant to section 68(2) of the Act to wind up the Pension Plan effective May 28, 2004. The notice was provided to members and former members of the Pension Plan and to any other persons entitled to payment from the Pension Plan. A copy of the notice was also provided to the Superintendent as required by the Act.

NOW THEREFORE TAKE NOTICE I propose to consider to make a declaration pursuant to section 83 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most-recent actuarial valuation report on the Pension Plan was prepared as of December 31, 2001 by Eckler Partners Ltd. This valuation determined that the Pension Plan had solvency assets of \$20,172,000., solvency liabilities of \$22,822,000. and a solvency deficiency (excluding the solvency asset adjustment) of \$2,650,000. as at December 31, 2001 and a transfer ratio of 88.4%. Furthermore, the Administrator has filed an Actuarial Opinion by the Pension Plan actuary in which the actuary stipulated that the Pension Plan's assets are not sufficient to cover the liabilities of the Pension Plan on a wind up basis.
2. PricewaterhouseCoopers Inc. was appointed Receiver for Slater Steel Inc. on August 30, 2004 by the Ontario Superior Court of Justice.
3. Morneau Sobeco (Regulatory Services) Inc. was appointed as administrator of the Pension Plan on September 4, 2004 by the Superintendent.
4. The Administrator has advised staff that they will be filing a Proof of Claim with the estate of Slater Steel Inc. in respect of the deficiency in the Pension Plan. However, they were advised by the Receiver that there are no funds available for distribution to the Pension Plan.
5. The Administrator has also advised staff that there are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

YOU are entitled to a hearing by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a

written notice that you require a hearing.¹ Any notice requiring a hearing shall be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at Toronto, Ontario this 28th day of February, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day



Notice of Proposal to Refuse to Make an Order

IN THE MATTER OF *the Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "PBA");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
Refuse to Make an Order under Section 87(1)
of the PBA Respecting the **Ontario Public
Service Employees' Union Pension Plan
Registration No. 1012046 (the "Plan")**

TO: **Mr. Julian Paul**
650 Lawrence Avenue West,
Unit 618
North York, Ontario M6A 3R8
Applicant

AND TO: **OPSEU Pension Trust**
1 Adelaide Street East
Suite 1200
Toronto, Ontario M5C 3A7
Administrator of the Plan

NOTICE OF PROPOSAL

**I PROPOSE TO REFUSE TO MAKE AN
ORDER** under section 87(1) of the *PBA*
directing the Plan to allow the Applicant to
purchase past service credits in the Plan for
the period December 3, 1977 to April 2, 1979.

REASONS FOR THE REFUSAL:

1. The Applicant worked with the Ministry
of Natural Resources on a casual basis
throughout 1977, 1978 and for the first
quarter of 1979. During these periods the
Applicant did not make any contributions
to the prior plan in existence at that time,
the *Public Service Superannuation Act* R.S.O.
1970, c. 387 as amended (the "Old Act").

2. The Applicant was appointed to classified
service on April 2, 1979 and began
contributing to the Plan on that date.
3. The Applicant indicated to the
Administrator of the Plan at that time,
(the Ministry of Government Services
(the "MGS")) that he wished to purchase
the periods of non-contributory service
between June 1977 to November 3, 1978
and November 14 to March 2, 1979 with
the Ministry of Natural Resources by
submitting a Statement and Application
Elective Service Arrears form on August
5, 1980 ("Application Form"). The
Application Form was signed by the
Applicant on March 27, 1979.
4. MGS reviewed the Applicant's periods of
non-contributory service and consistent
with the practice at that time, did an
assessment and determined the periods
of eligible service that the Applicant was
qualified to purchase pursuant to the Old
Act, which provided for the purchase of
non-credited service. After completing the
assessment, MGS mailed a Notification
of Arrears and Agreement to Contribute
form MGS 565 (the "MGS 565 Form") to
the Applicant on October 10, 1980, setting
out the period of eligible service the
Applicant was entitled to purchase.
5. The MGS 565 form indicated that the
Applicant was entitled to purchase
10 months and 4 days of prior non-
contributory service between May 29, 1978
and April 1, 1979, for the lump sum cost of
\$654.52. The form also stated in bold print
as follows: **" If we have not received the
completed form within 3 months from
the date of mailing, we shall treat your
request as lapsed."**

6. The Applicant did not return the MGS 565 form within the stipulated 3 month period. As a result, the term of the agreement to purchase past service credits lapsed.
7. In the Applicant's letter dated July 2, 2003, he confirms that he did not take advantage of the opportunity to purchase previous non-contributory service credits which was available in 1980.
8. On December 31, 1989, the *Public Service Pension Act, 1989 c. 73* (the "New Act") came into force and the Old Act was repealed effective January 1, 1990. The option to purchase prior non-credited service under the Old Act ceased with this repeal, however, the New Act included a provision which gave Plan members a deadline to exercise the option to purchase prior non-credited service for periods prior to 1990. Pursuant to section 11(6) of Schedule I of the New Act, individuals who were Plan members on December 31, 1989, had until December 31, 1991 to submit a written application to the Administrator of the Plan for the purchase of any past service credit prior to January 1, 1990.
9. The Administrator used various means of informing Plan members as of December 31, 1989, of the deadline of December 31, 1991, to make a written application to purchase pre-January 1, 1990 past service credits. The Administrator published items in the Government of Ontario newsletter, *Topical*, provided a pamphlet for payroll distribution, issued a new member's booklet titled "Your Pension Plan," hosted information sessions and issued "Fact sheets" and "Administration Guidelines Manual" to advise Plan members of the December 31, 1991 deadline.
10. The Applicant did not complete and submit a written application to purchase past service credits for his past service before the December 31, 1991 deadline imposed by section 11(6) of Schedule I of the New Act.
11. Since the Applicant failed to satisfy the conditions set out in the New Act necessary for him to become eligible to purchase past service credits, the Administrator did not permit the Applicant to purchase past service credits under the Plan.
12. Section 19(1) of the *PBA* provides that: "The administrator of a pension plan and the pension fund are administered in accordance with this Act and the regulations"
13. Section 19(3)(a) of the *PBA* provides that: "The Administrator of a pension plan shall ensure that the pension plan and pension fund are administered in accordance with, (a) the filed documents in respect of which the Superintendent has issued an acknowledgement of application for registration or a certificate of registration, whichever is issued later"
14. The Superintendent of Financial Services (the "Superintendent") can make an order under section 87(1) of the *PBA* if he is of the opinion, on reasonable and probable grounds, that the condition set out in section 87(2)(a) of the *PBA* exists: i.e. the pension plan or pension fund is not being administered in accordance with the *PBA*, the *Regulation 909, R.R.O. 1990*, as amended (the "Regulation") or the pension plan.
15. For the reasons set out above, the Superintendent is not of the opinion that the Plan is not being administered in accordance with its terms.
16. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the *PBA*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

For further information, contact the registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY REFUSE TO MAKE THE ORDER AS PROPOSED IN THIS NOTICE.

DATED at Toronto, Ontario, this 30th day of November, 2004.

K. David Gordon
Deputy Superintendent, Pension Division
By Delegated Authority

¹ NOTE - PURSUANT TO section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

Notice of Proposal to Refuse to Approve

IN THE MATTER OF the *Pension Benefits Act* R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Report on the Actuarial Valuation of the Plan Termination as at December 31, 2001 dated May 7, 2002 in respect of the **Retirement Plan for Salaried Employees of Famous Players and Subsidiary and Affiliated Companies, Registration Number 552752 (the "Plan")**;

TO: **Paramount Pictures (Canada) Inc.**
Paramount Pictures (Canada) Inc.
 c/o Viacom Inc.
 1515 Broadway Avenue
 45th Floor
 New York City, New York
 10036-5794 USA

Attention: Betty Panarella
 Vice President, Development and Employee Relations
Employer and Administrator of the Plan

AND TO: **Blake, Cassels & Graydon LLP**
 Barristers & Solicitors
 Box 25 Commerce Court West
 199 Bay Street
 Toronto, Ontario, Canada
 M5L 1A9

Attention: Caroline L. Helbronner
Lawyers for the Employer and Administrator

NOTICE OF PROPOSAL

I PROPOSE TO REFUSE TO APPROVE
 the Report on the Actuarial Valuation of the

Plan Termination as at December 31, 2001 (the "Report") dated May 7, 2002 pursuant to subsection 70(5) of the *Act*.

REASONS FOR PROPOSED REFUSAL:

1. Paramount Pictures (Canada) Inc. (the "Employer") is the employer and administrator of the Plan
2. The employer proposes to terminate the Plan effective December 31, 2001. The Report identified a surplus of wind up assets over wind up liabilities. The employer proposes to share the surplus assets that remain, after the settlement of all basic benefit entitlements of the members, former members and other persons entitled to benefits under the Plan at December 31, 2001, with such members, former members and other persons entitled to benefit.
3. The Report provides that the proposed termination of the Plan is contingent upon the receipt by Paramount Pictures (Canada) Inc. (the "Employer") of all the necessary approvals of the Plan termination and of the proposed surplus sharing agreements with the members, former members and other persons entitled to benefits under the terms of the Plan at December 31, 2001.
4. A Supplementary Report on the Plan Termination as at December 31, 2001 dated September 5, 2002 (the "Supplementary Report") provides that the termination of the Plan and the distribution of surplus is contingent upon the receipt by the Employer of all the necessary approvals, whether by the applicable regulatory authorities or by a court of competent jurisdiction, both of the Plan termination and of the Surplus Sharing Agreement.

5. The Surplus Sharing Agreement provides at paragraph 2 that the Plan will be terminated if the conditions specified in paragraphs 8 and 9 of the Surplus Sharing Agreement are satisfied. Paragraph 9 of the Surplus Sharing Agreement provides that consenting Plan members agree that the Employer's proposals to terminate the Plan is conditional upon the company obtaining any approval that the Company in its sole discretion deems necessary or appropriate from the Superintendent and any other applicable legal or regulatory authority (including, without limitation, any court) to (i) pay the proposed Pension Enhancements and Lump Sum Payments to the members of the Surplus Sharing Group as contemplated by the Surplus Sharing Agreement; (ii) pay the remaining Plan Surplus to the Company; and (iii) give effect to any other provisions of the Surplus Sharing Agreement.
6. Section 68(1) of the *Act* provides that an employer may wind up a pension plan in whole or in part. The Financial Services Commission of Ontario's ("FSCO") Policy No. W100-105 expressly provides that section 68 of the *Act* allows for an employer to wind up a pension plan in whole or in part, but does not provide for a conditional wind up.
7. The Report and the Supplementary Report expressly provide that the proposal to wind up the Plan is conditional on the Employer obtaining the necessary regulatory and court approvals. As a result the Superintendent cannot accept a conditional wind up proposal.
8. Section 70(1)(b) provides that when a pension plan is being wound up, the wind up report shall set out the benefits to be provided under the pension plan

to members, former members and other persons entitled to payments from the plan.

9. The Report, at Appendix D, lists the total number of pensioners, beneficiaries and vested former members that are affected by the Plan termination as 132, however, the Table of Member by Jurisdiction in the surplus sharing group at Appendix 13 of the Surplus Application is listed as 141 members. The Report therefore, does not include all the former members. Accordingly, the Superintendent cannot approve the Report.
10. Such further and other reasons that may come to my attention.

YOU ARE ENTITLED TO A HEARING

before the Financial Services Tribunal of Ontario (the "Tribunal") pursuant to subsection 89(6) of the *Act* if you deliver to the Tribunal, within thirty (30) days of the date of service of this Notice of Proposal, notice in writing requiring a hearing.¹ Any notice requiring a hearing should be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
North York, Ontario M2N 6L9

Attention: The Registrar

IF YOU FAIL TO DELIVER TO THE TRIBUNAL within thirty (30) days from the date this Notice of Proposal is served on you a written notice that you require a hearing, I may make the order proposed in this Notice of Proposal.

DATED at Toronto, Ontario, this 3rd day of December, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ PURSUANT to section 112 of the *Act*, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

Notices of Proposal to Refuse to Consent

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF an Application under section 78(1) of the *Act* submitted by Paramount Pictures (Canada) Inc. in respect of the **Retirement Plan for Salaried Employees of Famous Players and Subsidiary and Affiliated Companies, Registration Number 552752** (the "Plan").

TO: Paramount Pictures (Canada) Inc.
c/o Viacom Inc.
1515 Broadway Avenue
45th Floor
New York City, New York
10036-5794 USA

Attention: Betty Panarella
Vice President, Development
and Employee Relations.
**Employer and Administrator
of the Plan**

AND TO: Blake, Cassels & Graydon LLP
Barristers & Solicitors
Box 25 Commerce Court West
199 Bay Street
Toronto, Ontario M5L 1A9

Attention: Caroline L. Helbronner
**Lawyers for the Employer
and Administrator**

NOTICE OF PROPOSAL TO REFUSE TO CONSENT TO APPLICATION

I PROPOSE TO REFUSE TO CONSENT
to the application for withdrawal of
surplus dated January 9, 2003 submitted
by **Paramount Pictures (Canada) Inc.** (the

"Employer"), for the payment of surplus
on the wind up of the Plan to the Employer
under section 78(1) of the *Act*.

REASONS FOR THE PROPOSED REFUSAL:

1. The Employer submitted the application for refund of surplus dated January 9, 2003 (the "Surplus Application") on the basis that the plan is being wound up. Section 79(3)(b) of the *Act* provides that the Superintendent shall not consent to an application by an employer in respect of surplus in a pension plan that is being wound up in whole or in part unless the pension plan provides for payment of surplus to the employer on the wind up of the pension plan.
2. The Employer proposes to terminate the Plan effective December 31, 2001. The Wind Up Report dated May 7, 2002 (the "Report") provides that the proposed termination of the Plan is contingent upon the receipt by Paramount Pictures (Canada) Inc. (the "Employer") of all the necessary approvals of the Plan termination and of the proposed Surplus Sharing Agreements with the members, former members and other persons entitled to benefits under the terms of the Plan at December 31, 2001.
3. A Supplementary Report on the Plan Termination as at December 31, dated September 5, 2002 (the "Supplementary Report") provides that the termination of the Plan and the distribution of surplus is contingent upon the receipt by the Employer of all the necessary approvals, whether by the applicable regulatory authorities or by a court of competent

- jurisdiction, both of the Plan termination and of the Surplus Sharing Agreement.
4. Therefore the Report and the Supplementary Report provide that the wind up of the plan is conditional. Section 68 of the *Act* only allows an employer to wind up a plan in whole or in part and does not provide for a conditional wind up proposal to wind up a pension plan. Since the Plan is not wound up, section 68 of the *Act* does not apply. Therefore, section 79(3)(b) of the *Act* cannot apply to the Surplus Application.
 5. Since the Plan is not wound up, it is a continuing pension plan and the Employer must satisfy the requirements in section 79(1)(b) of the *Act*. Section 79(1)(b) of the *Act* provides that the Superintendent shall not consent to the payment of surplus to the employer out of a continuing pension plan unless the pension plan provides for the withdrawal of surplus by the employer while the pension plan continues in existence, or the applicant satisfies the Superintendent that the applicant is otherwise entitled to withdraw the surplus.
 6. Further, section 10(2) of Regulations 909 R.R.O. 1990 (the "Regulations") provides that all persons who are entitled to receive benefits under the pension plan must consent to the terms upon which surplus is to be paid out of the Plan. Appendix 11 of the Surplus Application shows that 85.8% of the former members consented and not 100% as required by section 10(2) of the Regulations.
 7. In any event, the Employer has not demonstrated that it has complied with section 79(3)(b) or 79(1)(b) of the *Act*, which require that the pension plan provide for payment of surplus to the employer on wind up of the Plan.
 8. The Plan is the continuation of a pension plan established by Famous Players Canadian Corporation Limited ("FPCC") effective January 1, 1966 for the Salaried Employees of Famous Players Canadian Corporation Limited and Subsidiary and Affiliated Companies (The "FPCC Plan"). FPCC which was owned 50% by FPL and 50% by a third party Canadian controlled corporation.
 9. The FPCC Plan, section 2.01, provided that all contributions of the members and the Employer will be paid into a Pension Trust Fund which will be administered by the Trustees in accordance with the terms of the Trust Agreement which forms part of the Plan. The FPCC Plan was funded by a trust agreement made between FPCC and Montreal Trust dated December 23, 1965 (the "1965 Trust"). Paragraph 2 of the preamble of the 1965 Trust provides that under the FPCC Plan "...funds will be contributed to the Trustee, which funds as and when received by the Trustee will constitute a trust fund to be held and administered for the benefit of the employee members of the Plan or their beneficiaries .."
 10. Article Third of the 1965 Trust also contained a clause, that "...no part of the Trust Fund (other than such part as is required to pay taxes and administration fees and expenses) shall be used for, or diverted to, purposes other than for the exclusive benefit of the employee members of the Plan or their beneficiaries or estates." "Trust Fund" is defined in Article First of the 1965 Trust as all contributions, received by the Trustee together with the income therefrom.
 11. Article Thirteenth of the 1965 Trust specifically provided that the Trustee's

power to pay out the Trust Fund on termination is subject to the provisions of Article Third. Similarly, Article Twelfth, which granted the Employer power to modify or amend the 1965 Trust Agreement, was made subject to the provisions of Article Third.

12. The 1965 Trust did not contain a provision authorizing the Company to revoke the 1965 Trust.
13. There is no evidence that the 1965 Trust was ever terminated or exhausted.
14. Therefore, a trust was created in 1965 which covered surplus assets. The employer was not a beneficiary of the trust nor did it have the power to revoke the trust. Further, its power to amend the trust was subject to the provision that the funds were to be used for the exclusive benefit of the employee members of the Plan or their beneficiaries or estates.
15. The 1965 Trust was subsequently amended and replaced by a Trust Agreement made between FPCC and Montreal Trust Company, dated January 2, 1969 to provide that in the event of discontinuance of the Plan, the Trustees shall pay the Employer any remainder in the Trust Fund after all claims and liabilities on the fund under the terms of the Plan have been satisfied.
16. The terms of the 1965 Trust do not authorize a payment of surplus to the Employer. The subsequent amendment to the 1965 Trust to provide for the reversion of the surplus to the Employer constitutes a revocation or partial revocation of the trust which is not authorized in the original trust agreement, the 1965 Trust, and is therefore invalid.
17. In 1970, the FPCC Plan was amended and restated as two separate plans, the

Retirement Plan for Salaried Employees of Famous Players Canadian Corporation Limited and Subsidiary and Affiliated Companies (the "FPCC Non-Contributory Plan"), which was to provide benefits fully paid by the employer, and the Savings Plan for Salaried Employees of Famous Players Canadian Corporation Limited and Subsidiary and Affiliated Company (the "FPCC Savings Plan"), which was to provide benefits from employee contributions together with employer profit sharing allocations. The Surplus Application is in relation to the FPCC Non-Contributory Plan.

18. In 1971, the FPCC changed its name to Canadian Cablesystems Limited ("Cablesystems"), which then sold its theatre assets to FPL.
19. Pursuant to the Purchase and Sale Agreement between Cablesystems and FPL made January 3, 1971 ("1971 Purchase and Sale Agreement"), FPL assumed responsibility for the assets and liabilities of the FPCC Non-Contributory Plan and the FPCC Savings Plan.
20. By a resolution of the directors of Cablesystems in 1971 the name of the FPCC Non-Contributory Plan was changed to the Retirement Plan for Salaried Employees of Famous Players and Subsidiary and Affiliated Companies (the "FPL Plan") and the name of the FPCC Savings Plan was changed to the Savings Plan for Salaried Employees of Famous Players and Subsidiary and Affiliated Companies (the "FPL Savings Plan").
21. By a resolution of the board of directors of FPL dated May 17, 1971, FPL adopted both the FPL Plan and the FPL Savings Plan.
22. FPL entered into an amending agreement with Cablesystems and Montreal Trust

Company (the "Trustees") dated July 1, 1971 ("1971 Amending Agreement") whereby, in respect of the Trust Agreement:

- a. FPL accepted all the duties imposed upon it under the FPL Plan, the FPL Savings Plan and the Trust Agreement as the successor employer to Cablesystems.
 - b. The Trust Agreement was amended and restated as two separate trust agreements, one in respect of the Savings Plan and the other in respect of the FPL Plan (the "1971 FPL Trust").
23. The 1971 FPL Trust provided at Article Third that in the event of discontinuance of the Plan, the Trustees shall pay the Employer any remainder in the Trust Fund after all claims and liabilities on the fund under the terms of the Plan have been satisfied. Since the terms of the 1965 Trust Agreement do not authorize a payment of surplus to the Employer this amendment and the subsequent amendments to the trust to provide for the reversion of the surplus to the Employer constitute a revocation or partial revocation of the trust which is not authorized in the original trust agreement, the 1965 Trust, and are therefore invalid.
24. The Employer has therefore not demonstrated that it has complied with section 79(3)(b) of the Act which requires that the pension plan provide for payment of surplus to the employer on wind up of the Plan, or with section 79(1)(b) of the Act.
25. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal of Ontario (the "Tribunal") pursuant to subsection 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
North York, Ontario
M2N 6L9

Attention: The Registrar

For further information, contact the Registrar of the Tribunal by phone at 416-226-7752, or toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY REFUSE TO CONSENT TO THIS APPLICATION, AS PROPOSED IN THIS NOTICE OF PROPOSAL.

DATED at North York , Ontario, this 3rd day of December, 2004.

K. David Gordon
Deputy Superintendent, Pensions

¹ PURSUANT TO section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



Consents to Payments

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the Act);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the Act consenting to a payment out of the GPC Canada Inc. Pension Plan for J. Patrick Howe, Registration Number 0681619.

TO: GPC Canada
Suite 1300
100 Queen Street
Ottawa, ON K1P 1J9

Attention: John Scott
VP & General Counsel
Applicant and Employer

CONSENT

On or about November 7, 2003, the Superintendent of Financial Services caused to be served on GPC Canada Inc. a Notice of Proposal dated November 7, 2003 to consent, pursuant to subsection 78(1) of the Act, to the payment out of the GPC Canada Inc. Pension Plan for J. Patrick Howe, Registration Number 0681619, to GPC Canada Inc. in the amount of \$12,000 as at January 1, 2003 with no adjustments to the date of payment .

No Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the Act.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the GPC Canada Inc. Pension Plan for J. Patrick Howe, Registration Number

0681619, to GPC Canada Inc. in the amount of \$12,000 as at January 1, 2003 with no adjustments to the date of payment.

THIS CONSENT IS EFFECTIVE ONLY AFTER the Applicant satisfies me that provision has been made for the settlement of liabilities of the pension plan as calculated for purposes of termination of the pension plan, and on the remainder of the surplus being paid to the member.

DATED at Toronto, Ontario, this 4th day of November, 2004

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

c.c. Ashley Crozier, Crozier Consultants Inc.

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the Act);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(4) of
the Act consenting to a payment out of the
Pension Agreement between Honeywell
Limited - Honeywell Ltee National Auto,
Aero and Agri. Implement Workers Union,
Registration Number 0258426.

TO: **Honeywell Limited**
3333 Unity Drive
Mississauga ON L5L 3S6

Attention: Barb Moreau
Senior Pension Analyst
Canadian Business Services

CONSENT

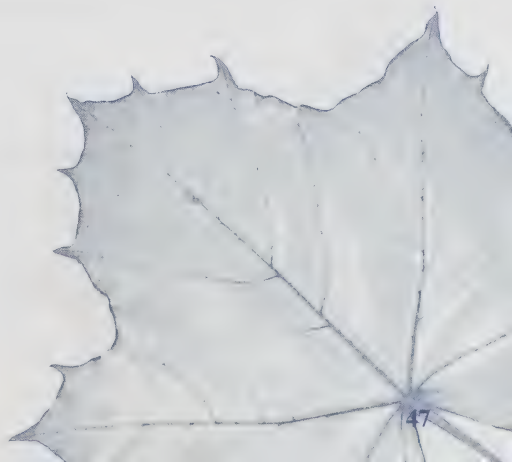
On or about January 21, 2005, the
Superintendent of Financial Services caused
to be served on Honeywell Limited a Notice
of Proposal dated January 21, 2005 to consent,
pursuant to subsection 78(4) of the Act, to
payment out of the Pension Agreement
between Honeywell Limited - Honeywell
Ltee National Auto, Aero and Agri.
Implement Workers Union, Registration No.
0258426, to Honeywell Limited in the amount
of \$1,250,000 as at January 21, 2004 plus
interest, at the fund rate of return thereon, to
the date of payment.

No Notice requiring a hearing was delivered
to the Financial Services Tribunal by the
Applicant or any other party within the time
prescribed by subsection 89(6) of the Act.

**THE SUPERINTENDENT OF FINANCIAL
SERVICES THEREFORE CONSENTS** to
the payment out of the Pension Agreement
between Honeywell Limited - Honeywell Ltee
National Auto, Aero and Agri. Implement
Workers Union, Registration No. 0258426,
to Honeywell Limited in the amount of
\$1,250,000 as at January 21, 2004 plus interest,
at the fund rate of return thereon, to the date
of payment.

DATED at Toronto, Ontario, this 21st day of
January, 2005

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P.8, as amended (the “Act”);

AND IN THE MATTER OF an Application by Gardena Canada Ltd. dated for the Consent of the Superintendent of Financial Services under subsection 78(1) of the Act to withdraw surplus from the Melnor Canada Ltd. Retirement Income Plan, Registration # 449777;

TO: **Gardena Canada Ltd.**
100 Summerlea Road
Brampton, ON L6T 4X3

Attention: Jay Sterling
President
Applicant and Administrator

CONSENT

On or about December 19, 2003, the Superintendent of Financial Services (the “Superintendent”) caused to be served on Gardena Canada Ltd. (“Gardena”) a Notice of Proposal dated December 19, 2003, proposing to refuse to consent to a surplus withdrawal application dated March 13, 2002 filed by Gardena.

On or about January 19, 2004, Gardena requested a hearing by the Financial Services Tribunal (the “Tribunal”).

On or about May 6, 2004, the Tribunal conducted a pre-hearing conference. Full party status was granted to ten members of the Plan (the “Ten Members”) who were all represented by the same solicitor.

On or about July 29, 2004, the Tribunal conducted a settlement conference. The

parties entered into a settlement and signed Minutes of Settlement on July 29, 2004 which provided that legal fees would be paid from the surplus in the Plan in the amount of \$35,000 to Gardena and \$35,000 to the Ten Members, and that any fees incurred or to be incurred by the Williamson Group would also be paid from the surplus in the plan. The Minutes of Settlement further provided that the remaining surplus would be divided between the members and former members of the Plan (who would receive 60% of the remaining surplus) and Gardena (who would receive 40% of the remaining surplus). Gardena was to file a supplementary surplus withdrawal application with consents of the affected members and former members, and the Superintendent was to issue a consent to the supplementary surplus withdrawal application upon its receipt.

On or about November 4, 2004, Gardena filed the supplementary surplus withdrawal application in accordance with the Minutes of Settlement dated July 29, 2004.

The application appears to comply with section 78 and subsection 79(3)(a) & (b) of the Act and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE WITHDRAWS the Notice of Proposal dated December 19, 2003.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Melnor Canada Ltd. Retirement Income Plan, Registration Number 449777, to Gardena Canada Ltd. in the amount of \$186,534.



THIS CONSENT IS EFFECTIVE ONLY

AFTER Gardena satisfies me that all benefits, benefit enhancements (including benefits and benefit enhancements relating to the Surplus Distribution Agreement between Gardena and the members, former members, and any other persons entitled to payments from the Plan's fund) and any other payments to which the members, former members, and any other persons entitled to such payments have been paid, purchased, or otherwise provided for.

DATED at Toronto, Ontario, this 27th day of January, 2005.

K. David Gordon
Deputy Director, Pensions

cc: Clifton P. Prophet
Gowling Lafleur Henderson LLP
Barristers & Solicitors
Suite 4900, Commerce Court West
Toronto, Ontario
M5L 1J3

Solicitor for Gardena Canada Ltd.

David Hager
Lang Michener LLP
Barristers & Solicitors
BCE Place, 181 Bay Street, Suite 2500
P.O. Box 747
Toronto, Ontario M5J 2T7

Solicitor for the Ten Members





Declarations

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the Act respecting the **Commercial Aluminum (1993) Limited Hourly Employees Pension Plan**, Registration Number 1010289; (the "Pension Plan");

TO: **Thompson Actuarial Limited**
87 Wolverleigh Blvd.
Toronto ON M4J 1R8

Attention: Andre Choquet, FCIA, FSA
Actuary
Administrator of the Pension Plan

AND TO: **Commercial Aluminum Limited**
240 Barton Road
Weston ON M9M 2W6

Attention: Suzanne Lam-Fitzgibbon
Employer

AND TO: **SF Partners Inc. (formerly Solursh Feldman Goldberg Inc.)**
The Madison Centre
4950 Yonge Street, Suite 400
Toronto ON M2N 6K1

Attention: Brahm Rosen
Senior Vice President
Trustee in Bankruptcy for Commercial Aluminum (1993) Limited

AND TO: **United Steelworkers of America**
115 Albert Street
P.O. Box 946
Oshawa ON L1H 7N1

Attention: Wess Dowsett
Staff Representative
Union

DECLARATION

WHEREAS:

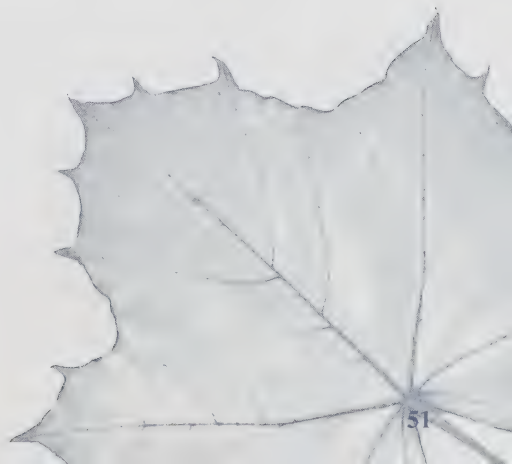
1. The Commercial Aluminum (1993) Limited Hourly Employees Pension Plan, Registration Number 1010289 (the "Pension Plan"), is registered under the Act; and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Pension Plan was wound up in full effective December 31, 2001; and
4. The Superintendent of Financial Services appointed Thompson Actuarial Limited as the administrator (the "Administrator") of the Pension Plan on October 4, 2002 ; and
5. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the Act, has been received.

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The Wind-Up Valuation Report filed by the Administrator indicates an estimated funding deficiency of \$94,825 as at December 31, 2001 and an estimated claim against the Guarantee Fund as at December 31, 2001 of \$78,525.
2. SF Partners Inc. was appointed Trustee in Bankruptcy for Commercial Aluminum (1993) Limited on January 30, 2002.
3. The Administrator has advised that they have filed a Proof of Claim on behalf of the Pension Plan, with the Trustee in Bankruptcy but was advised by the Trustee in Bankruptcy that they are no funds are available for distribution to the Pension Plan.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

DATED at North York, Ontario, this 17th day of December, 20, 2004.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the Act respecting the **Pension Plan for Hourly Employees of Canadian Tack and Nail Ltd.**, Registration Number 0241968;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David Kearney
Senior Consultant
Administrator of the Pension Plan

AND TO: **Canadian Tack and Nail Ltd.**
431 Dundas Street
P.O. Box 754
Cambridge ON N1R 5W6

Attention: Gary Ayers
Vice President & General
Manager
Employer

AND TO: **KPMG Inc.**
20 Erb Street West
Marsland Centre, 3rd Floor
Waterloo ON N2L 1T2

Attention: Robert J. Bradley
Senior Manager
**Trustee in Bankruptcy for
Canadian Tack and Nail Ltd.**

DECLARATION

WHEREAS:

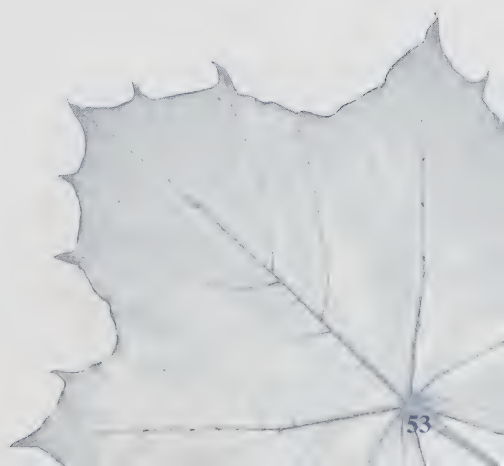
1. The Pension Plan for Pension Plan for Hourly Employees of Canadian Tack and Nail Ltd., Registration Number 0241968 (the "Pension Plan"), is registered under the Act; and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Deputy Superintendent, Pensions, has issued a Notice of Proposal dated September 15, 2004, to order the wind up of the Pension Plan in full for those members who ceased to be employed effective between March 20, 2003 and April 1, 2003, pursuant to section 69 of the Act; and
4. The Superintendent of Financial Services appointed Morneau Sobeco as the administrator (the "Administrator") of the Pension Plan on June 9, 2003 and
5. On October 6, 2004, the Deputy Superintendent, Pensions issued a Notice of Proposal of his intent to make a Declaration that the Guarantee Fund applies to the Pension Plan; and
6. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the Act, has been received.

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most-recent actuarial valuation report on the Pension Plan was prepared as of December 31, 2000 by Cowan Wright Limited. That report showed a solvency excess of \$84,900 as at December 31, 2000. The administrator had its actuary prepare a preliminary valuation of the Pension Plan as at April 1, 2003. The result of that review determined that the wind up estimated-funded ratio had deteriorated to approximately 22% and that the Pension Plan now has a wind up deficit of \$118,200 as at April 1, 2003.
2. KPMG was appointed Trustee in Bankruptcy for Canadian Tack and Nail Ltd. on April 1, 2003.
3. The Administrator has advised that they have filed a Proof of Claim on behalf of the Pension Plan, with the Trustee in Bankruptcy but was advised by the Trustee in Bankruptcy that there are no funds available for distribution to the Pension Plan.
4. The Administrator has advised that there are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

DATED at North York, Ontario this 20th day of December, 2004.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "*Act*");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the Act respecting the **Pension Plan for Salaried Employees of Canadian Tack and Nail Ltd., Registration Number 0581306 (the "Pension Plan")**;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David Kearney
Senior Consultant
Administrator of the Pension Plan

AND TO: **Canadian Tack and Nail Ltd.**
431 Dundas Street
P.O. Box 754
Cambridge ON N1R 5W6

Attention: Gary Ayers
Vice President & General
Manager
Employer

AND TO: **KPMG Inc.**
20 Erb Street West
Marshall Centre, 3rd Floor
Waterloo ON N2L 1T2

Attention: **Robert J. Bradley**
Senior Manager
**Trustee in Bankruptcy for
Canadian Tack and Nail Ltd.**

DECLARATION

WHEREAS:

1. The Pension Plan for Pension Plan for Salaried Employees of Canadian Tack and Nail Ltd., Registration Number 0581306, (the "Pension Plan") is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the Financial Services Commission of Ontario Act, 1997, c. 28, (the "*Act*"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the *Act* or the regulations made thereunder; and
3. The Deputy Superintendent, Pensions, has issued a Notice of Proposal dated September 3, 2004, to order the wind up of the Pension Plan in full for those members who ceased to be employed effective between March 20, 2003 and April 1, 2003 pursuant to section 69 of the Act; and
4. The Superintendent of Financial Services appointed Morneau Sobeco as the administrator (the "Administrator") of the Pension Plan on June 9, 2003; and
5. On October 6, 2004, the Deputy Superintendent, Pensions issued a Notice of Proposal dated October 6, 2004, of his intent to make a Declaration that the Guarantee Fund applies to the Pension Plan, and
6. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the Act, has been received.



NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most-recent actuarial valuation report on the Pension Plan was prepared as of December 31, 1999 by Wright Mogg & Associates Ltd. That report showed a wind up deficiency of \$65,000 as at December 31, 2001. The administrator had its actuary prepare a preliminary valuation of the Pension Plan as at April 1, 2003. The result of that review determined that the wind up deficiency had deteriorated to approximately \$328,000 and an estimated-funded ratio of 14% as at April 1, 2003.
2. KPMG was appointed Trustee in Bankruptcy for Canadian Tack and Nail Ltd. on April 1, 2003.
3. The Administrator has advised that they have filed a Proof of Claim with the Trustee in Bankruptcy in the amount of \$163,756 but was advised by the Trustee in Bankruptcy that there are no funds available for distribution to the Pension Plan.
4. The Administrator has advised that there are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

DATED at North York, Ontario this 23rd day of December, 2004.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the Act respecting the **Fantom Technologies Inc. Salaried Employees Retirement Income Plan - Part A and Part B, Registration Number 0910810** (the "Pension Plan");

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David Kearney
Senior Consultant
Administrator of the Pension Plan

AND TO: Fantom Technologies Inc.
PO Box 1004
Welland ON L3B 5S1

Attention: Norm Wotherspoon
Treasurer
Employer

AND TO: PricewaterhouseCoopers Inc.
145 King Street West
Toronto ON M5H 1V8

Attention: Catherine Hristow
Vice President
**Interim Receiver and Trustee
in Bankruptcy for Fantom
Technologies Inc.**

DECLARATION

WHEREAS:

1. Fantom Technologies Inc. Salaried Employees Retirement Income Plan - Part A and Part B, Registration Number 0910810, is registered under the Act; and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Pension Plan was wound up in full for those members who ceased to be employed effective between October 12, 2001 and March 22, 2002; and
4. The Superintendent of Financial Services initially appointed Deloitte & Touche Inc. as the administrator (the "Administrator") of the Pension Plan on April 25, 2002 and on July 11, 2002, appointed Morneau Sobeco as Administrator to replace Deloitte & Touche; and
5. On September 16, 2004, the Deputy Superintendent, Pensions issued a Notice of Proposal dated September 15, 2004, of his intent to make a Declaration that the Guarantee Fund applies to the Pension Plan, and
6. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the Act, has been received.

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most recent actuarial valuation performed as at December 31, 2000,

had a solvency deficiency of \$784,300 and a transfer ratio of 63%. Further, the Administrator had its actuary performed a preliminary valuation as at March 22, 2002, and the results of that review determined that the wind up funded ratio had deteriorated from 63% as at December 31, 2000 to approximately 48% as at March 22, 2002, and that the wind up deficit had increased to \$1,228,200 from \$784,300.

2. On October 25, 2001, Fantom Technologies Inc.'s request to obtain creditor protection for a temporary period under the *Companies' Creditors Arrangement Act* ("CCAA") was approved by an Order of the Ontario Superior Court of Justice. The Court appointed PricewaterhouseCoopers Inc. as the Monitor, as required under the CCAA proceedings and also appointed PricewaterhouseCoopers Inc. as Interim Receiver of the Fantom Technologies Inc.
3. On March 22, 2002, the Court issued an Order terminating the CCAA proceedings and discharged PricewaterhouseCoopers Inc. as Monitor but directed it to continue in its role as Interim Receiver. On the same day, PricewaterhouseCoopers Inc. was appointed Trustee in Bankruptcy.
4. The Administrator has filed a proof of claim in respect of the estimated \$1,025,302, deficit with the Trustee in Bankruptcy. The Administrator advises that the Trustee in Bankruptcy has not completed their administration of the bankruptcy but have advised them that it is unlikely there will be any proceeds from the bankrupt estate of Fantom Technologies Inc. to make payments to the Pension Plan.
5. The Administrator has advised that there are reasonable and probable grounds for considering that the funding requirements

of the Act and Regulation cannot be satisfied.

DATED at North York, Ontario this 23rd day of December, 2004.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Pension Plan for the Hourly Employees of Magnetek Polygon Transformer Co., a division of Magnetek National Electric Coil Limited, Registration Number 996942** (the "Plan").

TO: **Aon Consulting**
Suite 500
145 Wellington Street West
Toronto ON M5J 1H8

Attention: Mr. Frank Lee, FSA, FCIA
Administrator

AND TO: **National Electric Coil**
50 Northline Road
North York ON M4B 3E2

Attention: Mr. Jim Gray, General Manager
Employer

AND TO: **Canadian Union of Operating Engineers & General Workers**
2087 Dundas Street East, Unit 103
Mississauga ON L4X 2V7

Attention: Mr. Grgar Zoran
Union Representative

AND TO: **Doane Raymond Limited**
PO Box 55
Royal Bank Plaza, Suite 1100,
North Tower
Toronto ON M5J 2P9

Attention: **Mr. Ray Godbold**
Trustee in Bankruptcy of
Polygon Transformer Inc.

DECLARATION

WHEREAS:

1. The Pension Plan for the Hourly Employees of Magnetek Polygon Transformer Co., a division of Magnetek National Electric Coil Limited (the "Plan") is registered under the Act as Registration Number 996942; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. On January 1, 1994 the Company ceased contributing to the Plan; and
4. Magnetek Polygon Transformer Co. and its successor company, Polygon Transformer Inc., no longer exist, the latter entering into bankruptcy in April 1995; and
5. The Superintendent of Financial Services appointed MLH&A (now Aon Consulting Inc.) administrator of the Plan on October 20, 1995; and
6. On January 20, 2003 the Director, Pension Plans Branch, issued an order that the Plan be wound up effective December 31, 1993; and
7. On October 13, 2004 the administrator filed a wind up report for the Plan together with an application for a Declaration that the Guarantee Fund applies to the Plan; and
8. The administrator's preliminary estimate of the deficit in the Plan as at December 31, 1993 is \$24,149 with a wind up funded ratio of 64.14%, and an estimated claim

- against the Guarantee Fund of \$14,160; and
9. The administrator's estimate of the claim against the Guarantee Fund as at December 31, 2003 is \$81,945;
 10. On December 20, 2004 the Deputy Superintendent, Pensions, issued a notice of proposal to make a declaration that the Guarantee Fund applies to the Plan; and
 11. As of February 7, 2005 no request for a hearing before the Financial Services Tribunal has been received in respect of the notice of proposal;

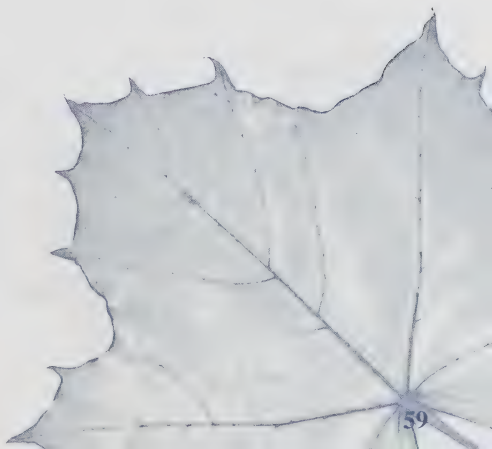
NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

**REASONS FOR THE PROPOSED
DECLARATION:**

1. Magnetek Polygon Transformer Co. no longer exists.
2. The administrator has estimated the wind up funded ratio of the Plan to be 64.14%.
3. The estimated claim against the Guarantee Fund as at the wind up date is \$14,160, increasing to an estimated \$81,945 when projected forward to December 31, 2003.
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.

DATED at North York, Ontario this 9th day of February, 2005.

Tom Golfetto
Director, Pension Plans Branch





Allocations

IN THE MATTER OF the *Pension Benefits Act*.
R.S.O. 1990, c. P. 8, as amended by (the "Act");

DATED at Toronto, Ontario, this 30th day of
November, 2004

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to Make a Declaration under Section 83 of
the Act, respecting the **Royal Oak Mines
Inc. Pension Plan for Timmins Salaried
Employees (the "Pension Plan") Registration
Number 0937458;**

K. David Gordon
Deputy Superintendent, Pensions

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Pauline Frenette
Associate Consultant
**Administrator of the
Pension Plan**

ALLOCATION

WHEREAS on August 28, 2001, the Director,
Pension Plans Branch declared, pursuant to
sections 83 and 89 of the Act, that the Pension
Benefits Guarantee Fund (the "Guarantee
Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the "Regulation"),
an amount not to exceed \$1,698,800 which
together with the Ontario assets of the
Pension Plan, will provide for the benefits
determined in accordance with section 34 of
the Regulation. Any money allocated from
the Guarantee Fund but not required to
provide such benefits shall be returned to the
Guarantee Fund.

IN THE MATTER OF the *Pension Benefits Act*.
R.S.O. 1990, c. P. 8, as amended by (the "Act");

DATED at Toronto, Ontario, this 30th day of
November, 2004

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to Make a Declaration under Section 83 of
the Act, respecting the **Royal Oak Mines
Inc. Pension Plan for Timmins Hourly
Employees (the "Pension Plan") Registration
Number 0937466;**

K. David Gordon
Deputy Superintendent, Pensions

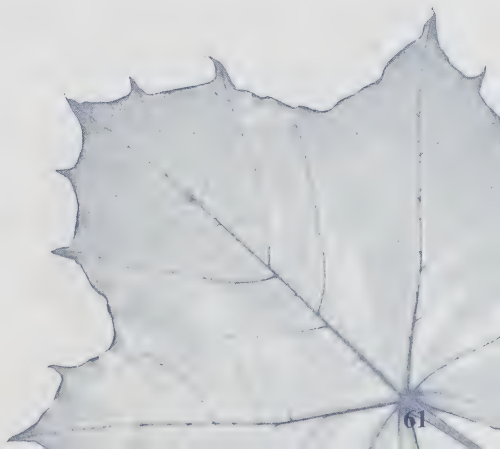
TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Pauline Frenette
Associate Consultant
**Administrator of the
Pension Plan**

ALLOCATION

WHEREAS on August 28, 2001, the Director,
Pension Plans Branch declared, pursuant to
sections 83 and 89 of the Act, that the Pension
Benefits Guarantee Fund (the "Guarantee
Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the "Regulation"),
an amount not to exceed \$2,617,900 which
together with the Ontario assets of the
Pension Plan, will provide for the benefits
determined in accordance with section 34 of
the Regulation. Any money allocated from
the Guarantee Fund but not required to
provide such benefits shall be returned to the
Guarantee Fund.





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended, (the "Act");

AND IN THE MATTER OF a Declaration
by the Superintendent of Financial Services
under Section 83 of the Act, respecting
the **Pension Plan for Employees of Port
Colborne Iron Works, Limited Who
Are Members Of The Bargaining Unit
Represented By The United Steel Workers
of America, Registration Number 289439**
(the "Plan");

TO: PricewaterhouseCoopers Inc.
Royal Trust Tower, Suite 3000
PO Box 82, Toronto Dominion
Centre
Toronto ON M5K 1G8

Attention: Mr. Tony Karkheck
Appointed Administrator

AND TO: Port Colborne Iron Works
Limited
PO Box 66
Port Colborne ON L3K 5V7

Attention: Edward B. Magee Jr.
President
Employer

AND TO: BDO Dunwoody Limited
37 Dorothy Street
Welland ON L3B 3V6

Attention: Mr. David Ponting, Partner
Trustee in Bankruptcy

AND TO: United Steelworkers of America
2601 Hwy 20 East, Unit 7
Fonthill ON L0S 1E6

Attention: Mr. Brian Adamczyk
**Union representative for the
members of the Plan**

ALLOCATION

WHEREAS on the 21st day of May, 2004 a
declaration was made, pursuant to sections
83 and 89 of the *Act*, that the Pension Benefits
Guarantee Fund (the "Guarantee Fund")
applies to the Plan;

NOW THEREFORE I shall allocate from
the Guarantee Fund and pay to the Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the "Regulation"), an
amount not to exceed \$467,807 that is expected
to provide, together with the Ontario assets
of the Plan, for the benefits determined in
accordance with section 34 of the Regulation,
and to pay the reasonable administration
costs to wind up the Plan. Any money
allocated from the Guarantee Fund but not
required to provide such benefits or costs
shall be returned to the Guarantee Fund.

DATED at North York, Ontario, this 10th day
of December, 2004.

K. David Gordon
Deputy Superintendent, Pensions

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
Make a Declaration under section 83 of the
Act relating to the **Employees' Retirement
Plan of Hoskins Alloys of Canada Limited,**
Registration Number 557868 (the "Plan").

TO: PricewaterhouseCoopers Inc.
1 Robert Speck Parkway
Suite 1100, Mississauga ON
L4Z 3M3

Attention: Mr. Tony Karkheck
Human Resource Services
Appointed Administrator

AND TO: Hoskins Manufacturing Co.
39500 High Pointe Boulevard,
Suite 300
Novi MI 48375

Attention: Phillip Varvatos
Controller
Employer

ALLOCATION

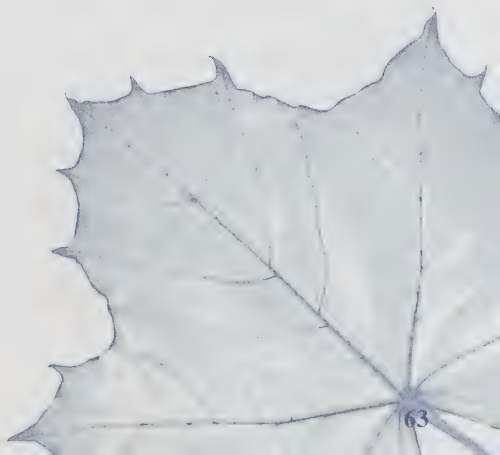
WHEREAS on the 12th day of October, 2004
a declaration was made, pursuant to sections
83 and 89 of the *Act*, that the Pension Benefits
Guarantee Fund (the "Guarantee Fund")
applies to the Plan;

NOW THEREFORE I shall allocate from
the Guarantee Fund and pay to the Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the *Act* (the "Regulation"),
an amount not to exceed \$306,700 that is
expected to provide, together with the

Ontario assets of the Plan, for the benefits
determined in accordance with section 34
of the Regulation, and to pay the reasonable
administration costs to wind up the Plan. Any
money allocated from the Guarantee Fund but
not required to provide such benefits or costs
shall be returned to the Guarantee Fund.

DATED at North York, Ontario, this 20th day
of December, 2004.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make a Declaration under Section 83 of the Act, respecting the **Pension Plan for Hourly Employees of Maksteel Hamilton - Division of Maksteel Inc., Registration Number 1059146 (the "Pension Plan")**;

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Pauline Frenette
Associate Consultant
**Administrator of the
Pension Plan**

INTERIM ALLOCATION

WHEREAS on October 27, 2004, the Director, Pension Plans Branch declared, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$769,600 (Interim Allocation) which together with a final Allocation and the Ontario assets of the Pension Plan, is estimated to provide for the benefits determined in accordance with section 34 of the Regulation. Any money allocated from the Guarantee Fund but not

required to provide such benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 20th day of December, 2004

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the Act, respecting the **Superior Machine and Tool (Chatham) Limited Retirement Plan for Salaried Employees, Registration Number 0691642**, (the "Plan");

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Mr. David R. Kearney,
Senior Consultant
**Appointed Administrator
of the Plan**

AND TO: Zwaig Consulting Inc.
Suite 1560, Exchange Tower
P.O. Box 17, 130 King Street West
Toronto ON M5X 1J5

Attention: Mr. Jeffrey D. Kerbel
**Trustee in Bankruptcy and
Interim Receiver and Manager**

ALLOCATION

WHEREAS on the 15th day of January, 2002 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan,

pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$2,139,984.00 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario, this 22nd day of December, 2004.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the Act, respecting the **Frost Fence Inc. Bargaining Unit Pension Plan for Members of United Steelworkers of America, Registration Number 697441** (the "Plan").

TO: The Standard Life Assurance Company
1245 Sherbrooke Street West
Montreal, Quebec H3G 1G3

Attention: Marc Vigneault, FCIA, FSA
Actuary
Appointed Administrator

AND TO: Frost Fence Inc.
250 Lottridge Street
Hamilton ON L8L 8J8

Attention: Mr. Neil Clark,
Chief Operations Officer
Employer

AND TO: United Steelworkers
of America
1031 Barton Street East
Room 113
Hamilton ON L8L 3E3

Attention: Mr. Ron Wyatt,
Staff Representative, Local 3561
**Union representing the
members of the Plan**

AND TO: Paul M. Casey & Associates, Ltd.
c/o Kroll Restructuring Ltd.
One Financial Place
One Adelaide Street East,
30th floor
Toronto ON M5C 2V9

Attention: Mr. Adam Bryk
Trustee in Bankruptcy

ALLOCATION

WHEREAS on the 19th day of September, 2003 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$5,874,000 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario, this 9th day of February, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the “Act”);

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, S. O. 1997, c. 28, respecting the **Pension Plan for Employees of Mimik Industries Inc., Registration Number 287490;**

TO: Mimik Industries Inc.
131 Sheldon Drive, Units 12 - 13
Cambridge ON N1R 6S2

Attention: Mr. Robert N. Fraser
Employer

Cowan Wright Limited
100 Regina Street South,
Suite 270, P.O. Box 96
Waterloo ON N2J 3Z8

Attention: Mr. Timothy Lawrence,
F.S.A., F.C.I.A., Principal
Administrator

ALLOCATION

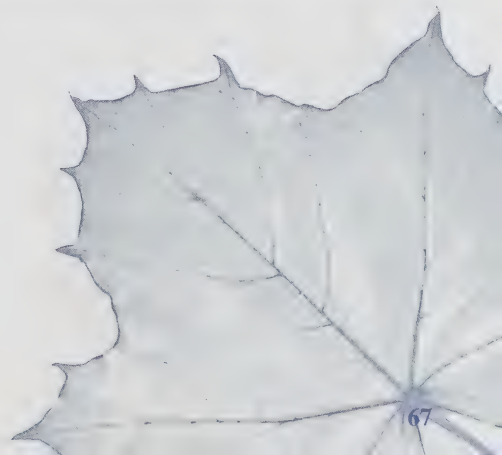
WHEREAS on the 14th day of October, 2004 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the “Guarantee Fund”) applies to the Pension Plan for Employees of Mimik Industries Inc., Registration Number 287490, (the “Plan”);

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990,

Reg. 909, under the Act (the “Regulation”), an amount not to exceed \$442,160.00, determined as of November 30, 2004, to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario this 9th day of February, 2005.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND TO: Sack Goldblatt Mitchell
20 Dundas Street West,
Suite 1130, PO Box 180
Toronto ON M5G 2G8

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the Act, respecting the **Retirement Plan for Employees of Peterborough Paper Converters Inc., Registration Number 283358** (the "Plan").

Attention : Mr. Michael Kainer
Counsel for Graphic Communications International Union Local 100-M
representing the bargaining unit members of the Plan

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Montreal, Toronto ON
M3C 1W3

ALLOCATION

WHEREAS on the 9th day of March, 2004 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

Attention: Mr. David R. Kearney
Senior Consultant
Administrator of the Plan

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$3,894,100 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

AND TO: Peterborough Paper Converters Inc.
550 Braidwood Avenue
Peterborough ON K9J 1W1

Attention: Mr. Blair Nixon,
Vice-President Finance
Employer

AND TO: PricewaterhouseCoopers Inc.
55 King Street West, Suite 900
Kitchener ON N2G 4W1

DATED at North York, Ontario, this 9th day of February, 2005.

Attention: Mr. Aldis Makovskis,
Senior Vice-President
Trustee in Bankruptcy

K. David Gordon
Deputy Superintendent, Pensions

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28 (the “Act”);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make a Declaration under Section 83 of the Act, respecting the **Pension Plan for Salaried Employees of Canadian Tack and Nail Ltd., Registration Number 0581306 (the “Pension Plan”)**;

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David Kearney
Principal
**Administrator of the
Pension Plan**

INTERIM ALLOCATION

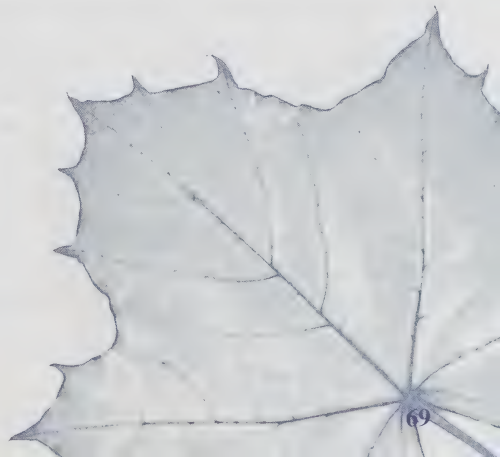
WHEREAS on December 23, 2004, the Director, Pension Plans Branch declared, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the “Guarantee Fund”) applies to the Pension Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the “Regulation”), an amount not to exceed \$410,000 (Interim Allocation) which together with a final Allocation, if any, and the Ontario assets of the Pension Plan, is estimated to provide for the benefits determined in accordance with section 34 of the Regulation. Any money

allocated from the Guarantee Fund but not required to provide such benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 14th day of February, 2005

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make a Declaration under Section 83 of the Act, respecting the **Pension Plan for Hourly Employees of Cold Metal Products Limited, Registration Number 0975045** (the "Pension Plan");

TO: PricewaterhouseCoopers Inc.
Mississauga Executive Centre
One Robert Speck Parkway
Mississauga ON 3M3

Attention: Tony Karkheck
Senior Vice-President
**Administrator of the
Pension Plan**

required to provide such benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 14th day of February, 2005

K. David Gordon
Deputy Superintendent, Pensions

INTERIM ALLOCATION

WHEREAS on July 14, 2004, the Director, Pension Plans Branch declared, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$4,272,454 (Interim Allocation) which together with a final Allocation and the Ontario assets of the Pension Plan, is estimated to provide for the benefits determined in accordance with section 34 of the Regulation. Any money allocated from the Guarantee Fund but not

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make a Declaration under Section 83 of the Act, respecting the **Pension Plan for Hourly Employees of Fantom Technologies Inc., Registration Number 0348995 (the "Pension Plan")**;

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David Kearney
Principal
**Administrator of the
Pension Plan**

INTERIM ALLOCATION

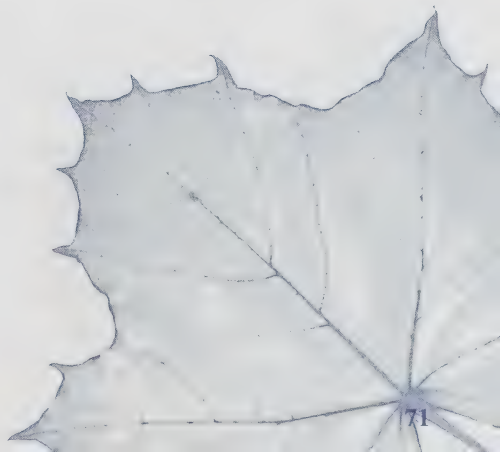
WHEREAS on October 22, 2004, the Director, Pension Plans Branch declared, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$3,549,200 (Interim Allocation) which together with a final Allocation, if any, and the Ontario assets of the Pension Plan, is estimated to provide for the benefits determined in accordance with section 34 of the Regulation. Any money allocated from the Guarantee Fund but not

required to provide such benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 14th day of February, 2005

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the *Pension Benefits Act*, as amended by the *Financial Services Commission of Ontario Act*, 1997, S. O. 1997, c. 28, respecting the **Forest City International Trucks Ltd. Non-Contributory Retirement Plan (for Non-Manual Employees of U.A.W., Local 27), Registration Number 405506;**

TO: Ernst & Young Inc.
222 Bay Street
P. O. Box 251
Toronto-Dominion Centre
Toronto ON M5K 1J7

Attention: Philip Kan, Manager
Administrator

AND TO: Forest City International
Trucks Ltd.
3003 Page Street
London ON N5V 4J1

Attention: John Parliament, Controller
Employer

AND TO: C.A.W. Local 27
606 First Street
London ON N5V 2A2

Attention: Mr. Tim Carrie, President
**Union Representative for
the Plan Members**

ALLOCATION

WHEREAS on the 7th day of October, 2004 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Forest City International Trucks Ltd. Non-Contributory Retirement Plan (for Non-Manual Employees of U.A.W., Local 27), Registration Number 405506, (the "Plan");

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$585,639.00 to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario this 14th day of February, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the Act, respecting the Pension Plan for Employees of Sealcraft Inc., Registration Number 995522 (the "Plan").

TO: PricewaterhouseCoopers Inc.
1 Robert Speck Parkway
Suite 1100
Mississauga ON L4Z 3M3

Attention: Ms. Lois Reyes
Human Resource Services
Administrator

AND TO: Sealcraft Inc.
6525 Northam Dr.
Mississauga ON L4V 1J2

Attention: Ms. Joan Shepherd,
Personnel Manager
Employer

AND TO: Schwartz Levitsky Feldman Inc.
1167 Caledonia Road
Toronto ON M6A 2X1

Attention: Mr. Richard Kline
Trustee in Bankruptcy

ALLOCATION

WHEREAS on the 22nd day of April, 2004 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$587,200 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario, this 17th day of February, 2005.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make a Declaration under Section 83 of the Act, respecting the **Fantom Technologies Inc. Salaried Employees Retirement Income Plan - Part A and Part B, Registration Number 0910810 (the "Pension Plan")**;

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David Kearney
Principal
**Administrator of the
Pension Plan**

allocated from the Guarantee Fund but not required to provide such benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 24th day of February, 2005

K. David Gordon
Deputy Superintendent, Pensions

INTERIM ALLOCATION

WHEREAS on December 23, 2004, the Director, Pension Plans Branch declared, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$1,720,400 (Interim Allocation) which together with a final Allocation, if any, and the Ontario assets of the Pension Plan, is estimated to provide for the benefits determined in accordance with section 34 of the Regulation. Any money



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make a Declaration under Section 83 of the Act, respecting the **Pension Plan for Employees of General Publishing Co. Limited, Registration Number 0563148 (the "Pension Plan")**;

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M2C 1W3

Attention: David Kearney
Principal
**Administrator of the
Pension Plan**

INTERIM ALLOCATION

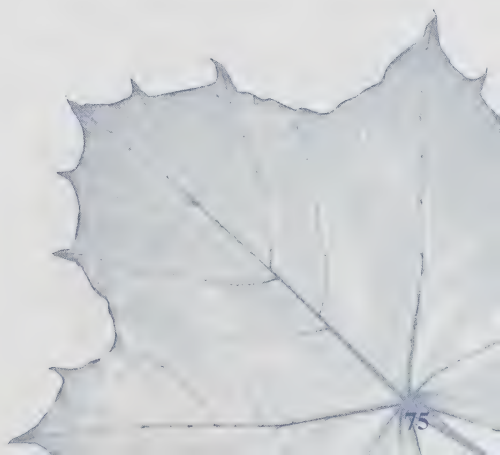
WHEREAS on October 22, 2004, the Director, Pension Plans Branch declared, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$2,132,800 (Interim Allocation) which together with a final Allocation, if any, and the Ontario assets of the Pension Plan, is estimated to provide for the benefits determined in accordance with section 34 of the Regulation. Any money allocated from the Guarantee Fund but not

required to provide such benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 24th day of February, 2005

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the Act, respecting the Philip Services Inc. Retirement Pension Plan for Members of United Steelworkers of America, Local 6098, Registration Number 347047 (the "Plan").

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway
Suite 1100
Mississauga ON L4Z 3M3

Attention: Ms. Lois Reyes
Human Resource Services
Administrator

AND TO: **Philip Services Inc.**
c/o PSC Metals Inc.
20521 Chagrin Boulevard
Cleveland OH 44122

Attention: Ms. Linda Bogdanovic,
Director, Human Resources
Employer

AND TO: **Ernst & Young Inc.**
220 Bay Street, P.O. Box 251
Ernst & Young Tower
Toronto-Dominion Centre
Toronto ON M5K 1J7

Attention: Ms. Leslea Gordon
Trustee in Bankruptcy

AND TO: **United Steelworkers of America, Local 6098**
1031 Barton Street East,
Room 113
Hamilton ON L8L 3E3

Attention: Mr. Charlie Scibetta
Union Representative for the Members of the Plan

ALLOCATION

WHEREAS on the 26th day of August, 2004 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$1,387,477 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

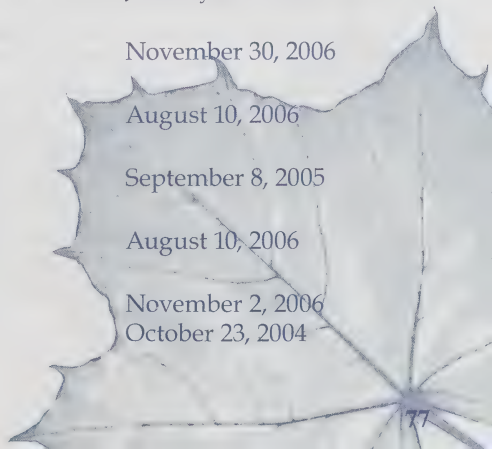
DATED at North York, Ontario, this 24th day of February, 2005.

K. David Gordon
Deputy Superintendent, Pensions

FINANCIAL SERVICES TRIBUNAL ACTIVITIES

Appointments of Financial Services Tribunal Members

Name and O.C.	Effective Appointment Date	Expiry Date
McNairn, Colin (Chair)		
O.C. 1518/2004	August 11, 2004	August 10, 2006
O.C. 1192/2004	June 9, 2004	September 8, 2004
O.C. 1623/2001	June 20, 2001	June 19, 2004
O.C. 1809/98	July 8, 1998	July 7, 2001
Corbett, Anne (Vice-Chair)		
O.C. 1519/2004	August 11, 2004	August 10, 2006
O.C. 1193/2004	June 9, 2004	September 8, 2004
O.C. 1438/2001	June 20, 2001	June 19, 2004
Solursh, John M. (Vice-Chair)		
O.C. 2407/2004	February 25, 2005	February 24, 2008
O.C. 1521/2004	August 11, 2004	August 10, 2006
Ashe, Kevin		
O.C. 1510/2002	September 26, 2002	September 25, 2005
Bharmal, Shiraz Y.M.		
O.C. 1511/2002	September 9, 2002	September 8, 2005
Brown, Martin J. K.		
O.C. 1522/2004	August 11, 2004	August 10, 2006
Erlichman, Louis		
O.C. 44/2005	January 22, 2005	July 21, 2005
O.C. 439/2002	January 23, 2002	January 22, 2005
O.C. 2527/98	December 9, 1998	December 8, 2001
O.C. 1592/98	June 17, 1998	December 16, 1998
Gavin, Heather		
O.C. 45/2005	January 22, 2005	July 21, 2005
O.C. 440/2002	January 23, 2002	January 22, 2005
O.C. 11/99	January 13, 1999	January 12, 2002
Harmer, Lily		
O.C. 2043/2004	December 1, 2004	November 30, 2006
Holden, Florence A.		
O.C. 1523/2004	August 11, 2004	August 10, 2006
Litner, Paul W.		
O.C. 1512/2002	September 9, 2002	September 8, 2005
Scane, Ralph Edward		
O.C. 1520/2004	August 11, 2004	August 10, 2006
Short, David A.		
O.C. 2095/2004	November 3, 2004	November 2, 2006
O.C. 2118/2001	October 24, 2001	October 23, 2004



Pension Hearings Before the Financial Services Tribunal

Revised Retirement Plan for Employees of the Allen-Bradley Division of Rockwell International of Canada (now the Pension Plan for Employees of Rockwell Automation Canada Inc.), Registration Number 321554, and the Pension Plan for Salaried and Management Employees of Reliance Electric Limited, Registration Number 292946, FST File Number P0051-1999;

On May 18, 1999, members of the Reliance Plan, requested a hearing regarding a decision of the Director of the Pension Plans Branch of the Financial Services Commission, by delegated authority from the Superintendent of Financial Services, dated March 20, 1999, with respect to the transfer of assets from the Pension Plan for Salaried and Management Employees of Reliance Electric Limited to the Revised Retirement Plan for Employees of the Allen-Bradley Division of Rockwell International of Canada.

On June 2, 1999, an application for party status was filed by Rockwell Automation Canada Inc.

At the pre-hearing conference on July 6, 1999 full party status was granted. The matter was adjourned *sine die* as the Applicants indicated that an application would be made to the Superintendent requesting a wind up of the Reliance Plan and all parties agreed that it would be premature to proceed in this matter until the Superintendent has made a decision respecting the request for wind up.

The pre-hearing conference resumed on January 20, 2005, and is scheduled to continue on May 2, 2005.

Schering-Plough Healthcare Products Canada Inc. Salaried Employees' Pension Plan, Registration Number 297903, FST File Number P0085-1999;

On November 10, 1999, Schering-Plough Healthcare Products Canada Inc. filed a request for hearing regarding the Superintendent's Notice of Proposal dated October 14, 1999, ordering Schering-Plough Healthcare Products Canada Inc. to amend the partial wind up report with respect to its salaried pension plan as at August 31, 1996, so that the surplus attributable to the partial wind up group would be distributed.

On March 27, 2000 a number of affected plan members filed an application for party status. The matter was adjourned *sine die* on May 10, 2000 pending the outcome of the Monsanto case. On July 29, 2004, the Supreme Court of Canada released its decision in the *Monsanto* case. On September 2, 2004, the Superintendent requested a pre-hearing conference be scheduled.

The pre-hearing conference scheduled on December 15, 2004, was adjourned on consent of the parties and rescheduled for March 30, 2005. On March 10, 2005, the parties advised that a revised partial wind up report was filed with the Superintendent and requested that the pre-hearing conference on March 30, 2005, be adjourned until an amended notice of proposal has been issued. On March 14, 2005, the matter was adjourned *sine die*.

Eaton Yale Limited Pension Plan for Salaried Employees of Cutler-Hammer Canada Operations, Registration Number 440396, FST Number P0117-2000;

On August 4, 2000, Eaton Yale Ltd. filed a request for hearing with respect to the Superintendent's Notice of Proposal dated June 22, 2000, proposing to order that the Plan be wound up in part in relation to those members and former members of the Plan who ceased to be employed by Eaton Yale from February 23, 1994 to January 12, 1995 as a result of the closure of two manufacturing facilities, located at Mount Forest, Ontario and St. Jean-sur-Richelieu, Quebec, on or about February 23, 1994.

At the request of the parties, this matter was adjourned *sine die* on November 9, 2000 pending the outcome of the Monsanto case. On July 29, 2004, the Supreme Court of Canada released its decision in the *Monsanto* case. On September 2, 2004, the Superintendent requested a pre-hearing conference be scheduled.

On March 16, 2005, the Applicant withdrew its request for hearing.

Elaine Nolan, George Phillips, Elisabeth Ruccia, Kenneth R. Fuller, Paul Carter, R.A. Varney and Bill Fitz being the members of the DCA Employees Pension Committee, Pension Plan for the Employees of Kerry (Canada) Inc., Registration Number 238915, FST File Number P0192-2002;

On May 27, 2002, William Fitz on behalf of the DCA Employees Pension Committee, requested a hearing regarding the Superintendent's Notice of Proposal, dated April 22, 2002, proposing to refuse to make an order that:

- the Plan be wound up, effective December 31, 1994;

- Kerry (Canada) Inc. pay to the pension fund (the "Fund") of the Plan all employer contributions for which a contribution holiday was taken since January 1, 1985, together with income that would have been earned by the Fund if those contributions had been made; and
- registration of the Revised and Restated Plan Text dated January 1, 2000, and all amendments to the Plan included therein, be refused.

On June 5, 2002, Kerry (Canada) Inc. filed an application for party status.

At the pre-hearing conference on October 15, 2002, full party status was granted to Kerry (Canada) Inc. The pre-hearing conference was adjourned to allow the parties to bring certain motions with respect to disclosure. At the motion hearing on December 6, 2002, three orders for disclosure were issued, one against Kerry (Canada) Inc., one against the DCA Employees Committee and one against the Superintendent.

On January 22, 2003, the pre-hearing conference resumed and was further adjourned to allow a further disclosure motion to be brought by the DCA Employees Pension Committee. The motion was heard on March 27, 2003, at which time it was dismissed.

On June 5, 2003, the pre-hearing conference resumed to deal with the framing of the "partial wind-up issue." The DCA Employees Pension Committee indicated that it would be bringing a motion for an order that would add an issue to or otherwise amend the matters in issue. That motion and another motion by Kerry (Canada) Inc. to amend the "partial

wind up issue" were heard on June 25, 2003. At the hearing, the parties agreed on a revised wording of the "partial wind up issue," and it was ordered that the statement of the issues in the proceeding be amended accordingly.

At a resumption of the pre-hearing conference on October 14, 2003, the parties agreed to hearing dates. On March 2-3, 2004, the Tribunal heard the evidence of the witnesses who were put forward in this matter.

On April 8, 2004, the Tribunal heard argument from the parties with respect to the DCA Employees Pension Committee's request that the Tribunal issue reasons for decision concerning the earlier motions for disclosure brought by the Committee. The Tribunal denied the request. The Tribunal also heard argument from the parties concerning the Applicant's reply submissions, in addition to a request that the argument phase of the hearing be adjourned to permit surreply submissions from the Respondents. The Respondents argued that the Applicant's reply submissions raised new issues and arguments not previously addressed. The request for adjournment was granted to allow the Respondents time to prepare, file and serve surreplies to the Applicant's reply. On June 8 and 9, 2004, the Tribunal heard oral arguments from the parties.

In its Reasons for Decision dated September 1, 2004, the Tribunal ordered the Superintendent to carry out the proposals in its Notice of Proposal except that the Superintendent was ordered to deny registration of the 2000 Plan unless certain amendments were made to preserve the interests of the Plan members who were beneficiaries of the trust in respect of the Fund, failing which the Superintendent

was ordered to require Kerry (Canada) to reimburse the Fund for contribution holidays taken in respect of the Plan since January 1, 2000. The Reasons for Decision were published in Volume 14, Issue 1 of the Pension Bulletin.

On September 29, 2004, the DCA Employees Pension Committee made a request to the Tribunal for an order of costs against Kerry (Canada) Inc. payable out of the Fund. On October 1, 2004, Kerry (Canada) Inc. made a request to the Tribunal for an order of costs against the DCA Employees Pension Committee. A hearing on the issue of costs was held on December 9, 2004. In its Reasons dated December 24, 2004, the Tribunal denied both applications for cost orders. The Reasons are published in this bulletin on page 93.

Hugo Jaik, Electrical Industry of Ottawa Pension Plan, Registration Number 0586396, FST File Number P0235-2004;

On February 16, 2004, Hugo Jaik, a former member of the Plan, requested a hearing regarding the Deputy Superintendent, Pensions' Notice of Proposal, dated January 28, 2004, to refuse to make an order requiring the Board of Trustees of the Electrical Industry of Ottawa Pension Plan (the "Board") to recalculate the pension benefits of members, and specifically to recalculate Mr. Jaik's pension benefit, and requiring that the composition of the Board be amended to comply with the terms of the Plan and declaring that the decisions of the Board improperly constituted are invalid.

A pre-hearing conference was held on May 25, 2004. On July 15, 2004, the Board filed an application for party status. At a resumption

of the pre-hearing conference on July 26, 2004, full party status was granted to the Board of Trustees.

At a settlement conference on August 5, 2004, the parties were unable to settle the matter. At a resumption of the pre-hearing conference on August 30, 2004, the hearing date of September 27, 2004 was cancelled and rescheduled to November 30, 2004, and was further rescheduled to January 24, 2005. At the end of the hearing, the Tribunal reserved its decision.

Coats Canada Inc., Coats Canada Employees' Pension Plan, Registration Number 288563, FST File Number P0237-2004;

On March 2, 2004, Coats Canada Inc. (the "Employer"), requested a hearing regarding the Deputy Superintendent, Pensions, Notice of Proposal dated February 5, 2004, to make an Order under section 69(1) of the Act, that the Plan be wound up in part in relation to those members and former members of the Plan who were employed by the Employer and who ceased to be employed between July 1999, and December 31, 1999, as a result of:

- (i) the discontinuance of all or a part of the business of the Employer; or
- (ii) the discontinuance of all or a significant portion of the business carried on by the Employer at its Coats Paton Division

On March 4, 2004, the Applicant requested agreement from the Superintendent to adjourn this matter *sine die* pending the outcome of the *Monsanto* case. On March 12, 2004, the Superintendent agreed to the adjournment. On July 29, 2004, the Supreme

Court of Canada released its decision in the *Monsanto* case. On September 2, 2004, the Superintendent requested a pre-hearing conference be scheduled.

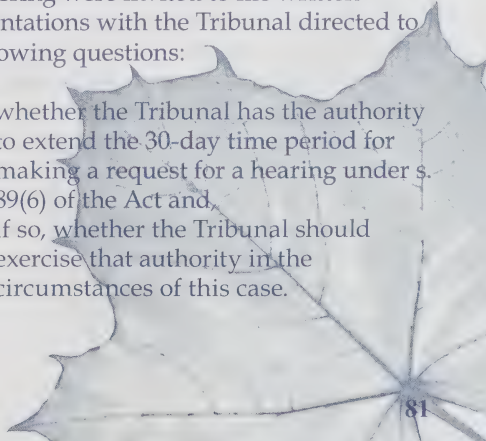
A pre-hearing conference is scheduled for April 15, 2005.

Constantin Munteanu, Portship Employees Negotiated Pension Plan, Registration Number 0393199; FST File Number P0240-2004;

On June 10, 2004, Constantin Munteanu a former member of the Plan, requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated April 8, 2004, proposing to refuse to make an Order directing Pascol Engineering, formerly Port Arthur Shipbuilding Company, to make an additional payment from the pension fund for the Portship Employees Negotiated Pension Plan in respect of Mr. Munteanu's pension benefits or the commuted value of his pension benefits.

The request for hearing was filed outside the 30-day time period set out in subsection 89(6) of the *Pension Benefits Act* (the "Act"). The parties to the proceeding, namely Mr. Munteanu and the Superintendent, and Pascol Engineering were invited to file written representations with the Tribunal directed to the following questions:

- whether the Tribunal has the authority to extend the 30-day time period for making a request for a hearing under s. 89(6) of the Act and,
- if so, whether the Tribunal should exercise that authority in the circumstances of this case.



The parties filed written representations with the Tribunal in November 2004. In its Reasons for Decision dated November 29, 2004, the Tribunal determined that it had the authority to extend the statutory time period and proceeded to grant such an extension as well as an extension of the similar time period under the Tribunal's Rules of Practice and Procedure for filing a formal Request for Hearing. Therefore, a hearing in this matter will now be convened. The Reasons for Decision dated November 29, 2004, were published in Volume 14, Issue 1 of the Pension Bulletin.

A pre-hearing conference was held on January 14, 2005. The hearing is scheduled for April 28, 2005. On March 16, 2005, the Applicant withdrew the request for hearing and the hearing date of April 28, 2005, was cancelled.

**Power Workers' Union, Kinectrics Inc.
Pension Plan, Registration Number 1075787;
FST File Number P0242-2002;**

On July 15, 2004, the Power Workers' Union requested a hearing regarding a refusal, evidenced by a letter from the Pension Plan Branch of the Financial Services Commission dated May 28, 2004, to issue an Order under s. 87 of the *Pension Benefits Act* requiring the administrator of the Kinectrics Inc. Pension Plan to take certain action and to refrain from taking other action in order to bring the Plan into compliance with the Act. The Power Workers' Union had requested that the Superintendent issue a Notice of Proposal requiring Kinectrics Inc. to immediately cease taking a contribution holiday, to prepare and file an updated actuarial report, and to commence funding the Plan pursuant

to the updated actuarial report. The Pension Plan Branch took the position, in its May 28 letter, that the Plan was being funded in accordance with the latest filed actuarial report and that no new actuarial report was yet due as the filed report did not disclose a funding concern.

On July 23, 2004, Kinectrics Inc. filed an application for party status. At a pre-hearing conference on November 15, 2004, the Tribunal was advised that a new actuarial report in respect of the Plan had been filed by Kinectrics Inc. showing a surplus in the fund for the Plan. At that pre-hearing conference, full party status was granted to Kinectrics Inc. and the conference was then adjourned, at the request of the parties, to allow for a settlement conference.

A settlement conference was held on November 15, 2004, at which time the parties requested the settlement conference resume again on December 7, 2004. On December 3, 2004 the parties advised that a settlement was reached and the December 7th date was not required.

Mary Sutton and other members and former members, AIG Assurance Canada Pension Plan, Registration Number 0284604; FST File Number P0245-2004

On November 23, 2004, Mary Sutton and other members and former members of the AIG Pension Plan (the "Applicants") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated October 22, 2004, proposing to refuse to make an Order that the AIG Pension Plan be wound up pursuant to s. 69(1)(a) of the *Pension Benefits Act* (the "Act"). On December 3, 2004, AIG

Assurance Canada (the "Employer") filed an application for party status.

The Applicants had asked the Superintendent to make an Order that the AIG Pension Plan be wound up principally on the basis that the Employer had discontinued all contributions to the Plan at such time as the members commenced participation in another pension plan – the "Commerce Pension Plan" – which was established on a defined contribution basis. The AIG Pension Plan was a defined benefit plan with a substantial surplus. It was converted to a defined contribution plan immediately before the members commenced participation in the Commerce Pension Plan. Those members were given the option of converting their accrued benefits under the AIG Pension Plan into a defined contribution account or having those benefits provided by way of annuities.

The employer had applied for the Superintendent's approval, pursuant to s. 81 of the Act, to the transfer of the assets of the AIG Plan, including the assets representing the surplus in the Plan, to the Commerce Pension Plan. The Applicants, relying on the decision of the Ontario Court of Appeal in *Aegon Canada Inc. and Transamerica Life Canada v. ING Canada Inc.*, [2003] O.J. No. 4755, objected to the grant of such approval on the basis that the pension and other benefits of the members of the AIG Pension Plan would not be protected in such a transfer.

In refusing to order that the AIG Pension Plan be wound up, the Deputy Superintendent took the position that s. 69(1)(a) of the Act can have no application where the contributions to a pension plan are being transferred to another pension plan and that transfer can

be approved pursuant to s. 81 of the Act. As to the application for approval of the transfer of assets from the AIG Pension Plan to the Commerce Pension Plan, the Deputy Superintendent took the position that, unlike the situation in *Aegon*, the trust in respect of the AIG Pension Plan did not preclude the amendment of the Plan to allow for its merger with another pension plan, which amendment had been made, and no separate accounting of the assets contributed to the merged pension plan was required. A final decision on the application for approval of the asset transfer, pursuant to s. 81 of the Act, was, nonetheless, deferred pending the outcome of the Notice of Proposal to refuse to order the wind up of the AIG Pension Plan.

The pre-hearing conference scheduled for February 18, 2005, in this matter, was adjourned on consent of the parties and re-scheduled for March 22, 2005. At the pre-hearing conference, full party status was granted to AIG Assurance Canada. The hearing is scheduled for June 27-30, 2005.

Julian Paul, Ontario Public Service Employees' Union Pension Plan, Registration Number 1012046; FST File Number P0246-2004

On December 7, 2004, Julian Paul (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated November 30, 2004, to refuse to make an Order, pursuant to s. 87(1) of the Pension Benefits Act (the "Act"), directing the OPSEU Pension Plan to allow the Applicant to purchase past service credits in the Plan for the period December 3, 1977 to April 2, 1979. The Order was refused on the basis that the Applicant, while eligible

to purchase certain past service credits, had not submitted a formal application to effect such a purchase within the relevant time limits for making such an application. In the circumstances, the Deputy Superintendent concluded that the administrator of the Plan had not failed to administer the Plan in accordance with the provisions of the Act, the Regulation under the Act or the Plan so as to justify the making of an Order pursuant to s. 87(1) of the Act.

On February 3, 2005, an application for party status, in this matter, was filed by OPSEU Pension Trust, the administrator of the Plan. At the pre-hearing conference on February 24, 2005, full party status was granted. The hearing is scheduled for April 27, 2005.

**Paramount Pictures (Canada) Inc.,
Retirement Plan for Salaried Employees
of Famous Players and Subsidiary and
Affiliated Companies, Registration Number
552752; FST File Number P0248-2005**

On January 7, 2005, Paramount Pictures (Canada) Inc. (the "Employer") requested a hearing regarding three Notices of Proposal of the Deputy Superintendent, Pensions, dated December 3, 2004, proposing to:

- refuse to approve a report, dated May 7, 2002, on the actuarial valuation of the retirement plan for the salaried employees of the Employer (the "Pension Plan") as at December 31, 2001;
- refuse consent to an application, dated January 9, 2003, submitted by the Employer, for the withdrawal of surplus on the wind up of the Pension Plan; and
- make an Order winding up the Pension Plan effective December 31, 2001.

The approval and consent were sought by the Employer pursuant to ss. 70(5), and 78(1), respectively, of the *Pension Benefits Act* (the "Act") and the Order was proposed to be made by the Deputy Superintendent under s. 69(1)(a) of the Act.

The Deputy Superintendent refused to approve the report on the actuarial valuation of the Pension Plan because the proposal to wind up the Plan was not unconditional, being dependent on the Employer obtaining the necessary regulatory and court approvals, and because the report did not, apparently, include all the members affected by the Plan termination.

The request for approval of the surplus withdrawal application was refused because:

- the Pension Plan was not being wound up given the contingent nature of the wind up proposal, in which case consent of all the Plan members to any withdrawal of surplus was required, as it was an on-going pension plan, but such unanimous approval was not obtained;
- the Plan did not provide for payment of surplus to the Employer on wind up of the Plan as there was a trust, for the benefit of the members of the Plan, in respect of the pension fund for the Plan and as no power was reserved to revoke that trust, the amendments to the terms of the trust providing that, at termination of the Plan, any surplus in the pension fund should be paid to the Employer, were invalid.

The Deputy Superintendent proposed to make the Order winding up the Pension Plan,

effective December 31, 2001, on the basis that as at May 31, 2001 there was a cessation of employer contributions to the pension fund as evidenced by notices sent by the Employer to the members on that date proposing to terminate the Plan and share the surplus with the members and by the report on the actuarial valuation of the Plan as at December 31, 2001, which indicated that there were no active members and that the Employer was not required to make contributions to the Plan.

The pre-hearing conference scheduled for April 5, 2005 was adjourned on March 31, 2005, at the request of the parties in favour of a settlement conference. The settlement conference is scheduled for June 1, 2005.

Stel Salaried Pensioners Organization, Stelco Inc. and Participating Subsidiaries Retirement Plan for Salaried Employees, Registration Number 0338509; the Stelco Inc. Retirement Plan for Lake Erie Steel Company Salaried Employees, Registration Number 0698753; "the Salaried Pension Plans"; FST File Number P0250-2005

On January 31, 2005, members of the Stel Salaried Pensioners Organization filed a Notice of Appeal in respect of a letter from the Pension Plans Branch of the Financial Services Commission of Ontario, dated January 7, 2005, in which a representative of the Superintendent takes the position that the decision by Stelco Inc. to pay certain Pension Benefits Guarantee Fund assessments out of the surpluses in the Salaried Pension Plans complies with the Regulation under the *Pension Benefits Act* and, in particular, s. 7(4) thereof, as such payments were made out of going concern surpluses in circumstances where no special payments were required to

be made with respect to the Salaried Pension Plans on account of solvency deficiencies.

This matter stands adjourned *sine die* due to a stay of proceedings against Stelco Inc. pursuant to proceedings under the *Companies' Creditors Arrangement Act*.

The following cases are adjourned *sine die*

- **The Retirement Plan for Salaried Employees (Consumer Foods) of General Mills Canada, Inc., Registration Number 342042, FST File Number P0058-1999;**
A pre-hearing conference scheduled for December 8, 2004 was adjourned *sine die* at the request of the parties on October 27, 2004, due to settlement discussions.
- **Cooper Industries (Canada) Inc., Retirement Plan for Salaried Employees of Cooper Canada – Plan A Registration Number 0240622, FST File P0156-2001;**
The pre-hearing conference, scheduled for November 1, 2004, was adjourned on consent of the parties to allow for settlement discussions.
- **Crown Cork & Seal Canada Inc., Registration Numbers 474205, 595371 & 338491, FST File Number P0165-2001;**
At a settlement conference on October 30, 2001, the parties agreed to adjourn the matter *sine die* pending discussions between the parties.
- **James MacKinnon (Labourers' Pension Fund of Central**

and Eastern Canada), Registration Number 573188, FST File Number P0167-2001;

On July 10, 2002, the hearing dates were adjourned *sine die* on consent of the parties.

- **Bauer Nike Hockey Inc. Pension Plan for Employees of Bauer Nike Hockey Inc., Registration Number 257337, FST File Number P0189-2002;**

At the pre-hearing conference on October 28, 2002, the matter was adjourned *sine die* pending the outcome of the *Monsanto* case.

- **Slater Steel Inc. Pension Plan for Corporate Employees and Salaried Employees of the Hamilton Specialty Bar Division, Registration Number 308338, FST File Number P0203-2002;**

On June 2, 2003, an Order was issued by the Ontario Superior Court of Justice in relation to Slater Steel Inc., pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings. The hearing in this matter originally scheduled for October 8-10, 15-16, 2003, therefore did not proceed.

- **George Polygenis, Public Service Pension Plan, Registration Number 0208777, FST File Number P0204-2002;**

On May 29, 2003, the parties consented to adjourn the June 11, 2003 hearing date *sine die*, pending finalization of a settlement.

- **Slater Stainless Corp. Pension Plan for Slater Stainless Corp. Members of**

the National Automobile Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), Registration Number 561456, FST File Number P0220-2003;

The pre-hearing conference scheduled for June 16, 2003 did not proceed since an Order was issued on June 2, 2003 by the Ontario Superior Court of Justice in relation to Slater Stainless Corp., pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings.

- **Slater Stainless Corp. Pension Plan for Slater Stainless Corp. Members of the United Steel Workers of America (Local 7777), Registration Number 561464, FST File Number P0221-2003;**

The pre-hearing conference scheduled for June 16, 2003 did not proceed since an Order was issued on June 2, 2003 by the Ontario Superior Court of Justice in relation to Slater Stainless Corp., pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings.

- **Jane Parker Bakery Limited Retirement Plan for Full-time Bargaining Employees, Registration Number 0400325, FST File Number P0224-2003**

On September 8, 2003, the parties advised they agreed to proceed with settlement discussions, and requested that the pre-hearing conference scheduled for September 10, 2003, be adjourned to a date to be determined if one becomes necessary.

- **Plumbers Local 463 Pension Plan, Registration Number 0598532, FST File Number P0230-2003**

On February 26, 2004, the matter was adjourned *sine die* pending the outcome of an application, by the Applicant, for judicial review of the Superintendent's Order dated October 6, 2003.

- **Peter Stopyn, Douglas Llewellyn, United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 67, Registration Number 381525; FST File Number P0239-2004;**

The pre-hearing conference scheduled for November 23, 2004, was adjourned *sine die* at the request of the applicants.

Financial Hardship

Application to the Superintendent of Financial Services for Consent to Withdraw Money from a Locked-in Retirement Account, Life Income Fund or Locked-in Retirement Income Fund based on Financial Hardship.

FST File Number	Superintendent of Financial Services' Notice of Proposal	Comments
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Decisions to be Published

DCA Employees' Pension Committee (Costs)

FST File No. PO192-2002 Decision No. PO192-2002 -2
FINANCIAL SERVICES TRIBUNAL

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the “PBA”);

AND IN THE MATTER OF a proposal of the
Superintendent of Financial Services to refuse
to make an order under sections 69 and 87 of
the Act relating to the Pension Plan for the
Employees of Kerry (Canada) Inc., Registration
Number 238915 (the “Pension Plan”);

AND IN THE MATTER OF a Hearing in
accordance with subsection 89(8) of the PBA;

BETWEEN:

ELAINE NOLAN, GEORGE PHILLIPS,
ELISABETH RUCCIA, KENNETH R.
FULLER, PAUL CARTER, R.A. VARNEY
and BILL FITZ, being members of the DCA
EMPLOYEES PENSION COMMITTEE,
representing certain of the members and
former members of the Pension Plan for the
Employees of Kerry (Canada) Inc.

Applicants

-and-

SUPERINTENDENT OF FINANCIAL
SERVICES and KERRY (CANADA) INC.

Respondents

DISPOSITION OF APPLICATIONS
FOR COSTS

REASONS OF MESSRS. BHARMAL AND
SHORT

1. The Background

In Reasons for Decision in this proceeding dated September 1, 2004, following a hearing on the merits, the Tribunal addressed the issues raised through a request for a hearing made by the Applicants acting in a representative capacity on behalf of certain members and former members of the Pension Plan for the employees of Kerry (Canada) Inc. (the “Company”). That request called into question certain proposals made by the Superintendent of Financial Services (the “Superintendent”) to refuse to take various actions, in respect of the Pension Plan, that the Applicants had asked the Superintendent to initiate. As a result of the decision of the Tribunal, the Applicants were successful in some elements of their challenge to the Superintendent’s proposals and the Superintendent and the Company, whose positions largely coincided, were successful in sustaining other elements of the proposals.

The Reasons for Decision indicated that the Tribunal would entertain applications for costs in respect of the proceeding that might be made by any of the parties in writing. Shortly after those Reasons were issued, the Applicants notified the Registrar of the Tribunal of their intention to apply for an order of costs and filed and served written submissions in support of such an order on September 29, 2004. The application is for an order against the Company to pay the costs of the Applicants from the pension fund for the Pension Plan or to pay such costs with an accompanying direction that those costs are an appropriate administrative expense to be borne by the fund. In the alternative, the Applicants ask for an unqualified order of costs against the Company.

On October 1, 2004, the Company served and filed written submissions in support of an order for the payment of its costs by the Applicants.

The Tribunal invited the parties, through a letter from the Registrar dated October 29, 2004, to make oral submissions on the following question:

Does the Tribunal have the authority to make an award for the payment of all or any of the costs incurred by a party in a pension proceeding out of the pension fund and, if so, what factors are relevant in determining whether to make such an award?

The Tribunal heard oral submissions on that question on December 9, 2004. The Applicants argued that the Tribunal had the authority to make such an award, while the Company and the Superintendent argued that the Tribunal did not have that authority. However, the Company maintained that if the Tribunal could make such an award, then the Company's costs, if not payable by the Applicants, ought to be paid from the pension fund for the Pension Plan.

2. The Tribunal's Authority in Respect of Cost Orders

The Tribunal has the authority, under s. 24(1) of the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c. 28 (the "FSCO Act") to "order that a party to a proceeding before it pay the costs of another party or the Tribunal's costs of the proceeding".

Section 17.1 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S-22, as amended (the

"SPPA") also addresses orders to pay costs, stating, in subsection (1), that a tribunal (such as the Financial Services Tribunal) may "order a party to pay all or part of another party's costs in a proceeding". The section also describes the circumstances in which such an order may be made as those set out in rules adopted by the tribunal to govern the practice and procedure before it, subject to the proviso, in subsection (2), that an order to pay costs, under the section, shall not be made unless;

- the party against which it is directed has engaged in unreasonable, frivolous or vexatious conduct or has acted in bad faith, and
- the tribunal has adopted rules governing its practice and procedure that deal with cost orders, including the circumstances in which payment of costs may be ordered, the amount of such costs and the manner in which the amount of costs is to be determined.

However, by virtue of subsection (4), these limitations are not to prevent a tribunal from making an order for the payment of costs in other circumstances (and without complying with the rest of the provisions of s. 17.1) where the order is made "in accordance with the provisions of an Act ... in force on the day" s. 17.1 came into effect. Section 24(1) of the FSCO Act is such a provision as it pre-dates s. 17.1 of the SPPA. Therefore, the broad authority of the Tribunal to make an order for costs under s. 24(1) of the FSCO Act is not restricted by s. 17.1 of the SPPA and, in particular, by subsection (2) thereof, which limits a tribunal to ordering costs against a party to situations where that party has acted in bad faith or has exhibited conduct or a course of conduct that is unreasonable, frivolous or vexatious.

The Tribunal has adopted Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal (effective August 1, 2004) as it is entitled to do by virtue of its authority under s. 22(a) of the FSCO Act and its supplementary authority under s. 25.1 of the SPPA. The Rules address the circumstances in which an order for costs can be made in favour of one party to a proceeding against another party by setting out, in Rule 45, the criteria to be considered by the Tribunal in deciding whether to make such an order. The Tribunal is also authorized, under Rule 47.01, to issue practice directions on costs dealing with "general costs assessment policies and tariffs, hourly rates for representatives and consultants, allowable disbursements, and other matters that the Tribunal may consider appropriate". The Tribunal has made a practice direction, namely its Practice Direction on Cost Awards (revised effective August 1, 2004), that, in our view, fits within this enabling Rule. Among other things, that Practice Direction states the general principle that the Tribunal "need not follow the civil trial practice where the usual rule is that the unsuccessful party pays the successful party's costs" (section 2) and sets out some examples of conduct engaged in by a party against which an order for costs is sought that may make it more or less likely that such an order will be made (clauses a and b of section 2). These Rules and this Practice Direction are relevant to the Tribunal's assessment of whether the circumstances justify the making of either or both of the orders of costs applied for in this proceeding.

We find nothing in the Rules, as they relate to cost orders, that is inconsistent with the FSCO Act and the SPPA and, therefore, in violation of s. 251(3) of the latter Act, which

requires consistency in this regard. The Applicants maintained that any rules of the Tribunal relating to cost awards could simply address the amount of such awards since s. 24 of the FSCO Act only refers to such rules in subsection (3), where it states that: "The Tribunal shall determine the amount of an order for costs in accordance with the rules of the Tribunal". We think that this statement is only for greater certainty and ought not to be taken, by implication, to detract from the broad authority of the Tribunal to make rules of practice and procedure under s. 22(a) of the FSCO Act and s. 25.1 of the SPPA.

3. The Tribunal's Authority to Make an Order for Costs that are or may be Payable out of the Fund for the Pension Plan

Section 24(1) of the FSCO Act and s. 17.1 of the SPPA - the potential statutory sources of the Tribunal's authority to make an order for costs - refer to orders directed to a party to a proceeding to pay the costs of another party (although s. 24(1) of the FSCO Act goes beyond this to authorize an order compelling a party to pay the costs of the Tribunal and the Superintendent incurred in connection with a proceeding before the Tribunal). We think that it would be stretching the wording of these provisions beyond the meaning they can reasonably bear if we were to read the provisions as authorizing an order for costs payable, or subject to reimbursement, out of the fund for a pension plan. The burden of such an order would fall upon the fund, which would not normally be a party to a proceeding before the Tribunal. The fund for the Pension Plan was not a party to this proceeding. Although it was under the stewardship of one of the parties, that does not make it a *de facto* party.

The Applicants referred us to several pension cases in which the costs of one or more parties were ordered to be paid out of a pension fund. These cases speak to the authority of the courts to make such an order. The courts normally have a good deal of discretion in procedural matters, whereas the jurisdiction of this Tribunal is entirely statute-based. We doubt that this Tribunal is entitled to assume court-like authority with respect to cost orders without clear direction in its governing legislation. We note that none of the cases to which we were referred offered any rationale for ordering a party's costs to be paid out of a pension fund rather than making them payable, in the usual fashion, by another party or parties.

We are of the view, however, that it would be in the public interest if the Tribunal were to have the authority, in an appropriate case, to make an order for costs, in favour of a party to a proceeding before it, that are payable out of a pension fund. The existence of such authority might encourage persons, such as pension plan members, to take advantage of the Tribunal's processes that they might otherwise be deterred from resorting to given the heavy burden of establishing the case for an order of costs against another party that must be paid out of pocket without resort to a pension fund.

The Superintendent suggested that the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "PBA") already provides authority, in s. 87, for an order directing the payment of legal costs out of a pension fund, which could be made, as appropriate, by the Superintendent after the Tribunal had disposed of a request for a hearing relating in some way to that pension fund. Section 87 of the PBA authorizes the

Superintendent to make an order requiring a plan administrator or other person to take any action in respect of a pension plan or a pension fund if he or she is of the opinion, among other things, that the plan or fund is not being administered in accordance with the PBA, the regulations under it or the pension plan. This provision would seem to allow the Superintendent to make an order that would bring a pension plan or fund back into line with the PBA, the regulations or the terms of the plan following a perceived breach of any of those instruments. But the non-assumption of legal costs by a pension plan or fund is not, of itself, a circumstance in which s. 87 allows for a corrective order. While s. 87 might, on occasion, provide a basis for an order of costs, it would be bound to have an uneven application, for that purpose, as its availability would turn on the particular wording of the provisions of the pension plan dealing with the expenses that are required to be borne by the plan out of the pension fund. In any event, the plan text is more likely to indicate what expenses may be charged, rather than those that must be charged, against the plan and fund.

4. The Case for an Order of Costs against the Company or the Applicants

We have considered the written submissions of the Applicants, made in support of their application for an order of costs against the Company, in light of the Rules of Practice and Procedure in Proceedings before the Financial Services Tribunal and the Tribunal's Practice Direction on Cost Awards, keeping in mind the general discretion of the Tribunal to award costs under s. 24(1) of the FSCO Act. We have concluded that the case has not been made out for our making an order for costs



against the Company in the circumstances of this proceeding.

We have also considered the written submissions of the Company, made in support of its application for an order of costs against the Applicants, in light of these same factors and have concluded that the case has not been made out for our making an order for costs against the Applicants in the circumstances of this proceeding. In our Disposition of Request for Costs, dated April 28, 2004, relating to an application for costs against the Applicants made by the Company in a related proceeding before this Tribunal (*Kerry (Canada) Inc. v. Superintendent of Financial Services and the Members of the DCA Employees Pension Committee*, FST File No. PO191-2002) we said that:

In assessing the Committee's conduct in the course of the proceeding ... we have given some weight to the fact that the Committee was not represented by counsel and that its representative, a Committee member, was not familiar with all of the procedural niceties of participation in a proceeding of this kind.

In considering the Company's application for costs in this proceeding, we have taken a similar approach to assessing the conduct of the members of the Committee, the Applicants herein, during the time they were unrepresented by legal counsel, that is the period from the filing of a request for a hearing through until late May of 2004, after the evidence phase but before the argument phase of the hearing in this proceeding, when counsel was retained.

5. Disposition of Applications for Cost Orders

We deny both applications for cost orders.

DATED at Toronto, Ontario this 24th day of December, 2004.

Shiraz Y.M. Bharmal, Member of the Tribunal
and of the Panel

David A. Short, Member of the Tribunal and
of the Panel

REASONS OF MR. MCNAIRN

I concur with my fellow panel members, Messrs. Bharmal and Short, in the disposition of the applications for cost orders in this proceeding, i.e. the denial of those applications. I also agree with their reasons (the "majority reasons") for disposing of the applications in this way except for the conclusions they arrive at in the first two paragraphs of section 3 of those reasons, headed "The Tribunal's Authority to Make an Order for Costs that are or may be Payable out of the Fund for the Pension Plan". Unlike my colleagues, I have concluded that the Tribunal has that authority. Having found the necessary authority, I then considered whether, if it were up to me, I would make either of the orders for costs applied for in this proceeding with the direction that those costs be paid out of the fund for the Pension Plan, or the surplus thereof, rather than by an opposing party. I have concluded that I would refuse to make such orders in the circumstances of this proceeding. The reasons for these conclusions are set out below.

1. The Tribunal's Authority to Make an Order for Costs that are or may be Payable out of the Fund for the Pension Plan

As noted in the majority reasons, section 24(1) of the FSCO Act and s. 17.1 of the SPPA - the potential statutory sources of the Tribunal's authority to make an order for costs - refer to orders directed to a party to a proceeding to pay the costs of another party. The precise terms of s. 24(1) of the FSCO Act are as follows:

The Tribunal may make an order that a party to a proceeding before it pay the

costs of another party or the Tribunal's costs of the proceeding.

By comparison, the statutory authority of the Ontario courts to deal with costs is set forth in the following terms in s. 131(1) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA"):

Subject to the provisions of an Act or rule of court, the costs of and incidental to a proceeding or a step in a proceeding are in the discretion of the court, and the court may determine by whom and to what extent the costs shall be paid.

Although there is no specific indication of the kinds of persons who could be required by a court, in its discretion, to bear the costs of a proceeding, the Ontario Court of Appeal has said that the words "by whom" in this provision should be interpreted to mean "by which of the parties to the proceeding before the court ..." (see *Rockwell Developments Ltd. v. Newtownbrook Plaza Ltd.* (1972), 27 D.L.R. (3d) 651, at pp. 659 and 661). Therefore, s. 131(1) of the CJA has the same practical limitation as s. 24(1) of the FSCO Act (and s. 17.1 of the SPPA) in that the persons to whom cost orders may be directed are parties to the proceeding in which the costs are incurred.

The Applicants referred in argument to several pension cases in which court costs were awarded in favour of one or more parties payable, in whole or in part, out of the pension fund for a pension plan or, specifically, the plan surplus in that fund. A number of these cases were before Ontario courts, including: *Re Reeve and Montreal Trust Co. of Canada* (1986), 25 D.L.R. (4th) 312,

see esp. at p. 319 (Ont. C.A.); *C.A.W., Local 458 v. White Farm Manufacturing Canada Ltd.* (1989), 31 E.T.R. 252, see esp. at p. 253 (H.C.J.) (these reasons relate to costs issues and are supplementary to reasons reported at (1988), 32 E.T.R. 202 (H.C.J.); an appeal from the decision in this case was dismissed at (1990), 39 E.T.R. 1 (Ont. C.A.)), *Ontario Teachers' Pension Plan Board v. Ontario (Superintendent of Financial Services) and Anne Stairs* (2003), 36 C.C.P.B. 154, see esp. at pp. 157-160 (the award of costs in this case was affirmed at (2004), 236 D.L.R. (4th) 514, at pp. 544-545 (Ont. C.A.)), *Crownx Inc. v. Edwards* (1994), 120 D.L.R. (4th) 270, see esp. at p. 283 (Ont. C.A.), *Re Sara Lee Corp. of Canada Pension Plan*, [1989] O.J. 2597, see esp. at p. 5 (H.C.J.), *Re Knechtel Furniture Ltd.* (1985), 20 E.T.R. 217, see esp. at p. 224 (H.C.J.), and *Nu-Kote Canada Inc. v. Royal Trust Corp. of Canada* (1991), 4 O.R. (3d) 336, see esp. at p. 343 (Gen. Div.). While none of the decisions in these cases recites the authority of the court for making an order for costs payable out of a pension fund, it can be fairly assumed that the authority comes from s. 131(1) of the CJA even though that provision, as interpreted by the Court of Appeal in *Rockwell*, is to the effect that cost orders must be directed to parties to a proceeding before the court.

Although, historically, the Ontario courts may have had some inherent equitable jurisdiction to make cost awards, the contemporary view is that the jurisdiction of the courts to award costs is not inherent but is dependent on statutory authority. This latter view was expressed by the Ontario Court of Appeal in *Poulton v. Ontario Racing Commission* (1999), 177 D.L.R. (4th) 507, see at p. 510. The court referred to s. 131(1) of the CJA as the source of the relevant statutory authority.

It follows from this analysis that I find sufficient precedent in the cases referred to above for the Tribunal making cost awards payable out of a pension fund, given that the authority of the Ontario courts for making such cost orders should now be taken to be derived from statute and given that the statutory authority of the courts and the statutory authority of this Tribunal to make cost orders are not materially different.

2. The Case for an Order of Costs in Favour of the Applicants or the Company Payable out of the Fund for the Pension Plan

As noted in the majority reasons, the availability of an order of costs payable out of the pension fund for a pension plan will, generally, have the beneficial effect of encouraging plan members to take advantage of the Tribunal's processes in situations where they might otherwise be deterred by the prospect of having to assume all or most of their own costs of doing so. Notwithstanding that beneficial effect, which would support the making of such an order of costs in favour of the Applicants in this proceeding, I do not believe that the appropriate threshold for making such an order has been met due to the following circumstances;

- the Tribunal did not receive any precise evidence of the level of support that the Applicants had from the Pension Plan membership,
- the Applicants success before the Tribunal was relatively limited in relation to the issues and broad arguments that they put to the Tribunal at various stages of the

proceeding; the Applicants were not successful in persuading the Tribunal to order the Superintendent to direct a partial wind up of the Pension Plan which, of all the relief requested by the Applicants, would apparently have generated the most benefit for a significant number of the members of the Pension Plan,

- there had not been any particular confusion or uncertainty in the pension world about how most of the issues raised by the Applicants in this proceeding should be resolved,
- the Applicants were responsible for some significant delays in the proceeding that could have been reasonably avoided, such as (but not limited to) a duplicative discovery motion, although I have discounted, to some extent, the significance to be attached to the delays that occurred in the preliminary stages of this proceeding since;
 - they occurred before the Applicants were represented by counsel and, therefore, before the legal costs that they seek to recover were incurred, and
 - at the relevant time, the Applicants were represented by one of their number who was not familiar with all the procedural niceties of participation in a proceeding of this kind.

Since a plan sponsor and administrator, such as the Company, is likely to be able to absorb the costs of its participation in a proceeding before the Tribunal more easily than plan members, the Tribunal should be less inclined to make an order for costs in favour of such a party payable out of a pension fund. In some cases, of course, the pension plan text may authorize the charging of such costs against the fund without any direction to that effect from the Tribunal. The arguments of the Company in support of its application for costs in this proceeding fall short of persuading me that the Tribunal should make the requested order for payment of those costs out of the fund for the Pension Plan, if it had the authority to make such an order.

In conclusion, therefore, I would not be prepared to make an order of costs in favour of the Applicants or the Company payable out of the fund for the Pension Plan. I recognize that Messrs. Bharmal and Short have not addressed the question, in their majority reasons, of whether the Tribunal should, in the circumstances of this proceeding, award costs to either or both of the parties payable from that fund. They did not have to do so, and did not in fact do so, given their view that the Tribunal does not have the authority to make such an award.

DATED at Toronto, Ontario, this 24th day of December, 2004

Colin H.H. McNairn, Chair of the Tribunal
and of the Panel



Ontario

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HERE

The Editor, *Pension Bulletin*
Financial Services Commission of Ontario,
5160 Yonge Street, 17th Floor
Box 85
Toronto, Ontario
M2N 6L9



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SEPTEMBER 2005 – VOLUME 14, ISSUE 3

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Ontario

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The Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 as amended, the Pension Benefits Act, R.S.O. 1990, c. P.8 as amended, R.R.O. 1990, Reg. 909 as amended, the terms of the pension plan and trust, if any, and the policies, procedures and practices of FSCO should be considered in determining specific legal requirements, and professional advice should be sought.

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GENERAL ANNOUNCEMENTS

BOB CHRISTIE CEO AND SUPERINTENDENT OF FINANCIAL SERVICES

On September 6, 2005, Bob Christie assumed his duties as CEO and Superintendent of Financial Services for the Financial Services Commission of Ontario (FSCO).

Mr. Christie is well-acquainted with FSCO and its role as pension regulator through his work with the Ontario Ministry of Finance, where he served as Deputy Minister from 2000 to 2004.

From 1999 to 2000, Mr. Christie was Deputy Minister of Training, Colleges and Universities and he has served in the Ministry of Intergovernmental Affairs as the Assistant Deputy Minister, Federal-Provincial Relations and as Assistant Deputy Minister, Policy Coordination in Cabinet Office.

Mr. Christie joined the Ontario Public Service in 1975 with the Ministry of Treasury and Economics. Over the years, he worked in a variety of capacities throughout the Ministry.

Mr. Christie has a PhD in economics from Queen's University.



COURT/PROSECUTION MATTERS

Court Matters

The information set out below is current to December 12, 2005.

I. Plumbers Local 463 Pension Plan

The Board of Trustees of the Plumbers Local 463 Pension Plan has filed an application for judicial review in respect of an order issued by the Superintendent on October 6, 2003, requiring the trustees to pay the cost of an examination order of the Plan by the Superintendent from the pension fund of the Plan. The application was withdrawn on October 17, 2005.

II. Kerry (Canada) Inc.

The FST conducted a hearing that arose from a Notice of Proposal in which the Superintendent proposed to order Kerry (Canada) Inc. to reimburse certain expenses paid from the pension fund and to amend its Pension Plan so that only expenses for the exclusive benefit of the members could be paid from the fund.

The FST released its decision on March 4, 2004. The FST held that certain expenses were to be reimbursed to the fund, while certain other expenses did not have to be reimbursed as they were incurred for the exclusive benefit of the members. The FST also held that there was no jurisdiction under the *Pension Benefits Act*, R.S.O. 1990, c. P.8 (PBA) for the Superintendent to order a plan amended.

A group of former members comprising the DCA Employees Pension Committee for the Pension Plan for the Employees of Kerry (Canada) Inc. has appealed the FST's decision to the Divisional Court.

In a separate decision on the refusal issue, the panel held that contribution holidays were permitted and authorized by the trust, and that there were no grounds for a partial windup or for an order compelling the Superintendent to monitor the plan. The panel held that the conversion breached the trust insofar as the revised plan text allowed surplus from the defined benefit portion of the plan to be used to fund liabilities for the defined contribution portion, as this diverted funds to the insurance contract with Standard Life. The panel directed the employer to either amend the plan text or transfer the defined contribution funds to the trustee; if this is not done within 90 days, the Superintendent is to refuse registration of the revised plan text.

Finally, the panel issued a separate decision concerning the members' committee's request that the legal costs incurred by the committee be paid out of the fund for the Plan. The majority of the panel determined that the FST did not have the jurisdiction to make such an order and also rejected the committee's request that costs be awarded against the employer.

In a separate Notice of Appeal, the members' committee has also appealed the panel's decision on the refusal and costs issues to the Divisional Court.

The appeal on the expenses issue was heard by the Divisional Court on March 31, 2005 and April 1, 2005. The appeal on the refusal and costs issues was heard on April 18 and 19, 2005. The panel reserved its decision on both appeals.

III. Participating Co-Operatives of Ontario Trustee Pension Plan

The Board of Trustees of the Participating Co-Operatives of Ontario Trustee Pension Plan filed an application before the Divisional Court under Rule 14 of the *Rules of Civil Procedure*, the *Pension Benefits Act* and the *Trustees Act* for the appointment of replacement trustees or an administrator and a declaration discharging the current Trustees. The application was initially scheduled to be heard on February 3, 2005 but was rescheduled to February 8, 2005 at which time the hearing was adjourned pending a settlement conference.

IV. Vivendi Universal Inc.

Vivendi Universal Inc. has filed an application with the Ontario Superior Court of Justice for a declaration that the Québec *Supplementary Pension Plans Act* does not compel Vivendi to transfer surplus on behalf of Québec members on an asset transfer to Diageo Canada Inc. The application also asks for a declaration that the *PBA* applies to the transfer.

The Régie des Rentes du Québec brought a motion to have Vivendi's application dismissed on jurisdictional grounds. The motion was heard by the Ontario Superior Court on March 2, 2005. The court reserved its decision. On April 5, 2005, the Court released its decision, dismissing the motion without prejudice to the Régie to raise the issue of mootness on the main application. On May 10, 2005, the Régie's appeal of this decision was heard and dismissed.

The application was heard on the merits on October 27 and 28, 2005. The court reserved its decision.

V. Bourdon v. Stelco

The Supreme Court of Canada heard this appeal on June 10, 2005. The Superintendent obtained intervener status. The issues were whether the Quebec courts had jurisdiction to hear the matter when the Superintendent had already approved the partial wind up report, and whether members in Quebec were entitled to grow-in benefits under the *PBA* by virtue of the pension plan providing that the *PBA* applies to any wind up of the plan. The Supreme Court dismissed the appeal on June 10 and indicated that reasons would be released in due course.

The reasons were released on November 10, 2005. The court held that the Superintendent's approval of the partial wind up report was final, and therefore the matter was *res judicata*. There were also no discretionary reasons to decline to apply the doctrine of issue estoppel, as the members had not attempted to challenge the Superintendent's approval in Ontario. Finally, the court held that Ontario was the proper forum for this dispute. The Court therefore, did not rule on the grown-in issue.



PROSECUTION MATTERS

I. Global Crossing Conferencing - Canada Ltd.

The corporation was charged, as the administrator of the Employee Retirement Plan for Global Crossing Conferencing - Canada Ltd., with failing to file Pension Plan Financial Statements for the fiscal years ending 2001, 2002 and 2003, failing to file the Annual Information Return for the fiscal years ending 2001, 2002 and 2003 and failing to pay the filing fees for the Annual Information Return for the fiscal years ending 1995, 2001, 2002 and 2003. The first appearance was on February 9, 2005. On June 15, 2005, the corporation pleaded guilty to three counts of failing to file Annual Information Returns and three counts of failing to file financial statements. A total fine of \$10,000 exclusive of Victim Fine Surcharge was levied in respect of all counts.

II. AON Consulting Inc. and J. Melvin Norton

Charges were laid on April 11, 2005 for failing to comply with accepted actuarial practice and failing to comply with section 22 of the *PBA*. The charges relate to the preparation and filing of two actuarial reports for the Slater Stainless Corp. CAW and USWA pension plans. The charges are currently being pre-tried and a trial date will be set soon. The first appearance was on May 18, 2005. A pre-trial conference was initially convened on June 22, 2005 and continued on August 22, 2005 and September 26, 2005. The pre-trial conference resumption and next appearance are scheduled for November 7, 2005. Trial dates have been set for May 12 and June 23, 2006.

SUPERINTENDENT OF FINANCIAL SERVICES

Administrator Appointments – Section 71 of the *Pension Benefits Act*

1. Mercer Human Resource Consulting as the Administrator of the Pension Plan for Employees of Regal Greetings & Gifts Corporation, effective immediately.
DATED at Toronto, Ontario, this 20th day of October, 2005.
2. London Life Insurance Company as the Administrator of the Pension Plan for Employees of Tandem Fabrics Inc., effective immediately.
DATED at Toronto, Ontario, this 7th day of October, 2005.
3. PricewaterhouseCoopers Inc. as the Administrator of the Pension Plan for Salaried Employees of 0521728 Ontario Ltd., effective immediately.
DATED at Toronto, Ontario, this 28th day of September, 2005.
4. Standard Life as the Administrator of the Pension Plan for Employees of Hastings Inc., effective immediately.
DATED at Toronto, Ontario, this 3rd day of August, 2005.
5. BMG North America Limited as the Administrator of the Retirement Income Plan for Non-Union Employees of Cowan Wright Beauchamp, effective immediately.
DATED at Toronto, Ontario, this 28th day of July, 2005.
6. Cowan Wright Beauchamp as the Administrator of the Pension Plan for Employees of Olympia Business Machines Canada Ltd., effective immediately.
DATED at Toronto, Ontario, this 28th day of July, 2005.
7. The Standard Life as the Administrator of the Pension Plan for Employees of Daniel E. Oakes & Associates Ltd., effective immediately.
DATED at Toronto, Ontario, this 6th day of July, 2005.
8. Great West London Life as the Administrator of the Pension Plan for Employees of A. Van Egmond Construction Ltd., effective immediately.
DATED at Toronto, Ontario, this 6th day of July, 2005.
9. Morneau Sobeco as the Administrator of the Pension Plan for Hourly Employees of Decor Products International, a Division of Kleco Corporation, effective immediately.
DATED at Toronto, Ontario, this 30th day of June, 2005.
10. Great West London Life as the Administrator of the Pension Plan for Salaried Employees of Decor Products International, a Division of Kleco Corporation, effective immediately.
DATED at Toronto, Ontario, this 27th day of June, 2005.
11. Mackenzie Financial Corporation as the Administrator of the Pension Plan for Employees of Community Christian Health Care Agency Hamilton Inc., effective immediately.
DATED at Toronto, Ontario, this 16th day of June, 2005.

12. Great West Life Assurance Company as the Administrator of the Pension Plan for Employees of The Royal Connaught, a Division of Joymarmon Properties Inc., effective immediately.
DATED at Toronto, Ontario, this 10th day of June, 2005.
13. Manulife Financial as the Administrator of the Pension Plan for Employees of Central Chrysler (1981) Ltd., effective immediately.
DATED at Toronto, Ontario, this 24th day of May, 2005.
14. Great West Life Assurance Company as the Administrator of the Pension Plan for Employees of International Controls Ltd., effective immediately.
DATED at Toronto, Ontario, this 17th day of May, 2005.
15. Manulife Financial as the Administrator of the Pension Plan for Employees of Collins Commercial Photocopy Ltd., effective immediately.
DATED at Toronto, Ontario, this 9th day of May, 2005.
16. Desjardins Financial Security Life Assurance Company as the Administrator of the Pension Plan for Employees of Toronto Victoria Financial Group Inc., effective immediately.
DATED at Toronto, Ontario, this 9th day of May, 2005.
17. Thompson Actuarial as the Administrator of the Pension Plan for Employees of Stearns Canada, a division of The Stearns Technical Textiles Company, effective immediately.
DATED at Toronto, Ontario, this 6th day of May, 2005.
18. PricewaterhouseCoopers Inc. as the Administrator of the Pension Plan for designated Employees of Ivaco Inc., effective immediately.
DATED at Toronto, Ontario, this 3rd day of May, 2005.
19. PricewaterhouseCoopers Inc. as the Administrator of the Pension Plan for Salaried Employees of Ivaco Inc., effective immediately.
DATED at Toronto, Ontario, this 3rd day of May, 2005.
20. London Life Insurance Company as the Administrator of the Pension Plan for Employees of Premium Pork Canada Inc., effective immediately.
DATED at Toronto, Ontario, this 23rd day of March, 2005.
21. Manulife Financial as the Administrator of the Pension Plan for Employees of Baker, Gurney & McLaren Press Ltd., effective immediately.
DATED at Toronto, Ontario, this 23rd day of March, 2005.



Notices of Proposal to Make an Order

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the “Act”);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(1) of
the Act consenting to a payment out of the
Pension Plan for the **Employees of Compo
Machinery Corporation of Canada Limited
and Affiliated Companies, Registration
No. 0574814**;

TO: **Compo Shoe Machinery
Corporation of Canada Ltd.**
3 Prospect Street
Morristown, NJ 07960 USA

Attention: Mr. Richard A. Varney
President and Secretary -
Treasurer
Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(1) of the Act, consenting to the payment,
out of the Pension Plan for the Employees
of Compo Machinery Corporation of
Canada Limited and Affiliated Companies,
Registration No.0574814 (the Plan), to **Compo
Shoe Machinery Corporation of Canada
Ltd.** in the amount of \$392,200 as at March
31, 2002, adjusted to the date of payment
for investment earnings, expenses, and a
payment of \$19,432 to the former members.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Compo Shoe Machinery Corporation of Canada Ltd. is the employer as defined in the Plan (the Employer)
2. The Plan was wound up, effective March 31, 2002
3. As at March 31, 2002 the surplus in the Plan was estimated at \$392,200
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan
5. The application discloses that by written agreement made by the Employer, and 100% of the former members, the surplus in the Plan at the date of payment, after deduction of wind up expenses is to be distributed: \$19,432 to the former members (as defined in the Surplus Distribution Agreement) and the remainder to the Employer.
6. The Employer has applied, pursuant to section 78 of the Act, and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of the surplus in the Plan (after adding investment earnings and deducting the payment to former members and expenses related to the wind up of the Plan.)
7. The application appears to comply with section 78 and subsection 79(3)(a) and (b) of the Act and with clause 8(1)(b) and subsections 28(5), and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to subsection 89(6) of the Act if, within thirty (30) days after this Notice of Proposal is served¹ on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing must be delivered to:

Financial Services Tribunal
5160 Yonge St., 14th Floor
North York, ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 10th day of March, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE—pursuant to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the Act,
respecting the **Retirement Plan for Salaried
Employees of National Refractories &
Minerals Inc., Registration Number 0931964**
(the "Pension Plan");

TO: Cowan Wright Beauchamp
Limited
100 Regina Street S., Suite 270
Box 96
Waterloo ON N2J 3Z6

Attention: Donna Wolfe
Senior Actuarial Technician
**Administrator of the Pension
Plan**

AND TO: National Refractories &
Minerals Inc.
c/o Development Specialists, Inc.
333 Grand Ave., Suite 2100
Los Angeles, CA 90071-1524

Attention: Bradley Sharp
Court Appointed Responsible
Individual
Employer

AND TO: Schwartz Levitsky Feldman
Inc.
1167 Caledonia Road
Toronto, ON M6A 2X1

Attention: James Graham
**Interim Receiver for National
Refractories & Minerals Inc.**

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER that the
Pension Plan be wound up in full effective
December 20, 2002.

I propose to make this order pursuant to
subsection 69(1) of the Act.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. there was a cessation or suspension of
employer contributions to the pension fund;
2. a significant number of members of the
pension plan ceased to be employed
by the employer as a result of the
discontinuance of all or part of the
business of the employer or as a result of
the reorganization of the business of the
employer;
3. all or a significant portion of the business
carried on by the employer at a specific
location was discontinued;
4. such further reasons as may come to my
attention.

YOU ARE ENTITLED TO A HEARING
by the Financial Services Tribunal (the
"Tribunal") pursuant to section 89(6) of the
Act, if, within thirty (30) days after the Notice
of Proposal is served on you, you deliver to
the Tribunal a written notice that you require
a hearing¹. **ANY NOTICE REQUIRING A
HEARING** shall be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 11th day of March, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the Act,
respecting the **Proboard Limited Employees'
Pension Plan** Registration Number 593814
(the "Plan");

TO: David R. Kearney
Principal
Morneau Sobeco
895 Don Mills Road, Suite 700
Toronto, ON M3C 1W3
Administrator

AND TO: Steve Geddes
Director of Finance
Proboard Limited
P.O. Box 1600
Atitokan, ON P0T 1C0
Employer

AND TO: Brian Deazeley CA, CIRP
ISCA Financial Services
2172 Dunvegan Avenue
Oakville, ON L6J 6P1
Trustee in Bankruptcy

AND TO: Rene Lindquist
National Representative
**Communications, Energy and
Paperworkers of Canada
(Local 49-0)**
516 South High Street
Thunder Bay, ON P7B 3M3
**Union representative for the
members of the Plan**

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under
section 69 of the Act that the Plan be wound
up effective **May 30, 2003 through October
6, 2003 FOR THE FOLLOWING REASONS
AND SUCH FURTHER REASONS THAT
MAY COME TO MY ATTENTION:**

1. There is a cessation or suspension of
employer contributions to the pension fund.
2. Failure of the employer to make
contributions to the pension fund as
required by the *Act* or the regulations.
3. The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency Act*.
4. A significant number of members of
the pension plan ceased to be employed
by the employer as a result of the
discontinuance of all or part of the
business of the employer or as a result of
the reorganization of the business of the
employer.
5. All or a significant portion of the business
carried on by the employer at a specific
location was discontinued.

YOU ARE ENTITLED TO A HEARING
by the Financial Services Tribunal (the
"Tribunal") pursuant to section 89(6) of the
Act, if, within thirty (30) days after the Notice
of Proposal is served on you, you deliver to
the Tribunal a written notice that you require
a hearing¹. **ANY NOTICE REQUIRING A
HEARING SHALL BE DELIVERED TO:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 10th day of May 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 69 of the
Act, respecting the **Oxford Automotive
Canada Ltd. Pension Plan for Union
Employees Located at the Cambridge Plant,**
Registration Number 996926;

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto ON M5K 1J7
Trustee in Bankruptcy

AND TO: Sym Gill
National Director of Pensions
Canadian Auto Workers Union,
Local 1986
205 Placer Court
Toronto, ON M2H 3H9
Union representative

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under
section 69 of the Act that the Plan be wound
up in full effective October 11, 2000 through
September 30, 2002 for the following reasons
and such further reasons that may come to
my attention:

1. The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency
Act*.
2. All or a significant portion of the business
carried on by the employer at a specific
location was discontinued.

YOU ARE ENTITLED TO A HEARING
by the Financial Services Tribunal (the
"Tribunal") pursuant to section 89(6) of the
Act, if, within thirty (30) days after the Notice
of Proposal is served on you, you deliver to
the Tribunal a written notice that you require
a hearing¹. **Any notice requiring a hearing
shall be delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at 416-
226-7752, toll free at 1-800-668-0128, ext. 7752,
or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 11th day of May, 2005.

K. David Gordon
Deputy Superintendent, Pensions.

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Oxford Automotive Canada Ltd. Pension Plan for Salaried Employees Located in Chatham and Wallaceburg, Ontario, Registration Number 1063023;**

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Shelley McIntyre
Manager, Compensation
& Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective February 28, 2003 through March 1, 2004 for the following reasons and such further reasons that may come to my attention:

1. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.
2. A significant number of members have ceased to be employed by the employer as a result of the discontinuance or reorganization of all or part of the business of the employer.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 11th day of May, 2005.

K. David Gordon
Deputy Superintendent, Pensions.

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the Act,
respecting the **Oxford Automotive Canada
Ltd. Pension Plan for Hourly Employees
Located at the Wallaceburg Plant,
Registration Number 364356;**

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

AND TO: Bill Pollock
President
**United Auto Workers Union,
Local 251**
88 Elm Drive South
Wallaceburg, ON N8A 5E7
**Union representative for the
members of the Plan**

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under
section 69 of the Act that the Plan be wound
up effective December 5, 2003 through
March 1, 2004 for the following reasons and
such further reasons that may come to my
attention:

1. The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency
Act*.
2. All or a significant portion of the business
carried on by the employer at a specific
location was discontinued.

YOU ARE ENTITLED TO A HEARING
by the Financial Services Tribunal (the
"Tribunal") pursuant to section 89(6) of the
Act, if, within thirty (30) days after the Notice
of Proposal is served on you, you deliver to
the Tribunal a written notice that you require
a hearing¹. Any notice requiring a hearing
shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at 416-
226-7752, toll free at 1-800-668-0128, ext. 7752,
or by fax at 416-226-7750.



IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 11th day of May, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the “Act”);

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
Make an Order under section 69 of the *Act*
relating to the Pension Plan for **Executives
of Shoppers Drug Mart Inc. Registration #
1066083 (the “Plan”)**;

TO: John Caplice
SVP Treasurer and Investor
Relations
Shoppers Drug Mart Inc.
243 Consumers Road
North York, ON M2J 4W8
**Employer and Administrator of
Plan**

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
section 69 of the *Act* that the Plan be wound
up in part in relation to those members of the
Plan who ceased to be members of the plan
as a result of a cessation of employment with
Shoppers Drug Market Inc. (the “employer”)
on or before January 15, 2003.

REASONS FOR THE ORDER:

1. The Plan was established effective
February 4, 2000, and is a successor
pension plan to the Imperial Tobacco
Corporate Pension Plan, registered in
Québec with the Régie des Rentes du
Québec under Registration No. 27280.
2. When the Plan was established on
February 4, 2000 there were 81 members
in the Plan. On or before January 15,
2003, the employment of 53 of these
members was terminated otherwise than

by retirement. These terminations took
place as a result of the reorganization of
the business of employer which included
the restructuring of regional operations
of the employer as self-contained business
units and accountability for all non-
store related activities was removed
from the regions and placed with the
corporate group. The number of members
whose employment ceased represents
a significant number of members of the
plan ceasing to be employed as a result of
that reorganization. As a result there are
grounds under section 69(1)(d) of the *Act*
to order a partial wind up of the plan.

3. The employer has not offered pension
benefits to the members whose
employment has been terminated that
would be available under the *Act* in the
event of a partial wind up of the Plan.
The employer has indicated that there is
a unregistered supplementary pension
plan which also provides pension benefits
to members who have been terminated.
However, the employer has not established
that all of the members who have been
terminated will obtain the same level of
benefits from the unregistered plan as
they would be entitled to under the *Act* if
the Plan is partially wound up. Therefore,
there are no discretionary reasons for the
Superintendent to refuse to order a partial
wind up under section 69 of the *Act*.
4. Such further and other reasons that may
come to my attention.

**YOU ARE ENTITLED TO A HEARING**

by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

**IF YOU FAIL TO REQUEST A HEARING
WITHIN THIRTY (30) DAYS, I MAY
REFUSE TO MAKE THE ORDER
PROPOSED IN THIS NOTICE. THE
ADMINISTRATOR IS REQUIRED**

pursuant to subsection 89(5) of the *Act*, to transmit a copy of this Notice of Proposal to members of the Plan whose employment was terminated with the employer on or before January 15, 2003.

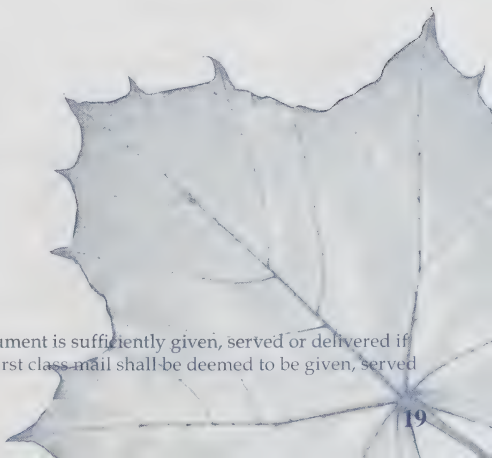
DATED at Toronto, Ontario, this 18th day of May 2005.

K. David Gordon
Deputy Superintendent, Pensions

c.c.

J. David Vincent, Torys LPP
John Morin, Fasken Martineau

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.





IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Pension Plan for Hourly-Rated Employees of Dunlop (Canada) Inc. who are Members of Local 974 (USWA) (the Plan) Registration Number 0375048;**

TO: Sharon Carew
Director
PricewaterhouseCoopers Inc.
Mississauga Executive Centre
One Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: **Dunlop (Canada) Inc.**
330 Byron Street South
Whitby, ON L1N 4P8
Employer

AND TO: Jake Weibe
Grant Thornton Limited
P.O. Box 55, Royal Bank Plaza
19th Floor, South Tower
Toronto, ON M5J 2P9
Receiver and Trustee in Bankruptcy

AND TO: John O'Connor
United Steelworkers of America Local 974
115 Albert Street, P.O. Box 946
Oshawa, ON L1H 7N1
Union Representative

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective **between October 22, 2004 and October 29, 2004 for the following reason and such further reasons that may come to my attention:**

1. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. **Any notice requiring a hearing shall be delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 21st day of June, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(1) of
the Act consenting to a payment out of the
**Pension Plan for Employees of Dyment
Limited, Registration No. 0242735;**

TO: **Dyment Limited**
1235 Bay Street, Suite 400
Toronto, ON M5R 3K4

Attention: Mr. E. A. Campbell
Controller
Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(1) of the Act, consenting to the payment,
out of the Pension Plan for Employees of
Dyment Limited, Registration No.0242735
(the Plan), to **Dyment Limited** in the amount
of 50% of the wind up surplus of \$1,660,847 as
at December 31, 2002 plus 50% of investment
earnings thereon to the date of payment, less
50% of expenses relating to the wind up of
the Plan.

I PROPOSE TO MAKE THE ORDER
effective only after the Applicant satisfies me
that all benefits and benefit enhancements
pursuant to the Surplus Distribution
Agreement set out in paragraph 5 below and
any other payments to which the members,
former members, and any other persons
entitled to such payments have been paid,
purchased, or otherwise provided for.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS :

1. Dyment Limited is the employer as defined in the Plan (the Employer)
2. The Plan was wound up, effective December 31, 2002
3. As at December 31, 2002 the surplus in the Plan related to the wind up was estimated at \$1,660,847
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan
5. The application discloses that by written agreement made by the Employer, and 80.3% of former members and other persons entitled to payments, the surplus in the Plan at the date of payment, after deduction of wind up expenses is to be distributed:
 - a) 50% to the Employer; and
 - b) 50% to the beneficiaries of the Plan as defined in the Surplus Distribution Agreement.
6. The Employer has applied, pursuant to section 78 of the Act, and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 50% of the surplus in the Plan (after adding 50% of investment earnings and deducting 50% of the expenses related to the wind up of the Plan.)
7. The application appears to comply with section 78 and subsections 79(3)(a) and (b) of the Act and with clause 8(1)(b) and subsections 28(5) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)

pursuant to subsection 89(6) of the Act if, within thirty (30) days after this Notice of Proposal is served¹ on you, you deliver to the Tribunal a written notice that you require a hearing.

YOUR WRITTEN NOTICE requiring a hearing must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 16th Floor
North York, ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 21st day of June, 2005

K. David Gordon
Deputy Superintendent, Pensions

c.c. Kerry Worgan, Mercer Human Resource Consulting

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IN THE MATTER OF the *Pension Benefits Act* R.S.O. 1990, c. P.8, as amended (the “PBA”);

AND IN THE MATTER OF an actuarial valuation report as at December 31, 2003 revised February 2005 submitted by the Board of Trustees of the **Labourers’ Pension Fund of Central and Eastern Canada, Registration Number 0573188;**

AND IN THE MATTER OF a proposal to issue an Order under section 88 of the PBA.

TO: **Board of Trustees of the Labourers’ Pension Fund of Central and Eastern Canada**
1835 Yonge Street, Suite 700
Toronto, ON M4S 1X8

Attention: Joseph Mancinelli
Chairman, Board of Trustees
Administrator of the Plan

AND TO: **Koskie Minsky LLP**
Barristers & Solicitors
20 Queen Street West
Suite 900, Box 52
Toronto, ON M5H 3R3

Attention: Michael Mazzuca
Legal Counsel for Administrator

NOTICE OF PROPOSAL

I PROPOSE TO ORDER the Administrator of the plan to prepare and file a new actuarial valuation report as at December 31, 2003 in respect of the Labourers’ Pension Fund of Central and Eastern Canada, Registration Number 0573188 (the “Plan”) that complies with sections 6, 14, 16 and 17 of Regulation 909, R.R.O. 1990 made under the PBA (the “Regulation”)

and, specifically, which includes either:

The results of such tests performed on both a going concern and solvency basis as will demonstrate the sufficiency of the contributions to provide for the benefits set out in the Plan without consideration of any provision for reduction of benefits set out in the Plan;

or

Where contributions are not sufficient to provide the benefits under the Plan as determined on both a going concern and solvency basis, a proposal by the actuary of options available to the administrator of the Plan that will have the result that the required contributions will be sufficient to provide the benefits under the Plan on both a going concern and solvency basis.

REASONS FOR THE PROPOSED ORDER:

1. The Plan is a multi-employer pension plan (“MEPP”) established pursuant to a collective agreement or a trust agreement.
2. Section 14 of the Regulation requires the administrator of a pension plan, including MEPPs, to file with the Superintendent of Financial Services a report prepared by an actuary containing an actuarial valuation of the pension plan. Section 14(8) of the Regulation requires that such a report set out “on the basis of a solvency valuation”, *inter alia*, whether there is a solvency deficiency and, if there is a solvency deficiency the amount of the solvency deficiency and the special payments required to liquidate the deficiency, whether the transfer ratio is less than one and if the transfer ratio is less than one, the transfer ratio.

3. Section 17(1) of the Regulation states that to determine the existence of a solvency deficiency for the purposes of a report under section 14, "a valuation shall be performed by the person preparing the report to determine the solvency liabilities of the plan and the solvency assets of the plan". Section 17(2) of the Regulation states that "in determining the solvency liabilities for a multi-employer pension plan established pursuant to one or more collective agreements or a trust agreement ... , the solvency liabilities shall be determined on the basis of the benefits structure set out in the plan at the date of the valuation without consideration of any provision for the possible reduction of such benefits."
4. Section 16 of the Regulation states that an actuary preparing a report under section 14 "shall use methods and actuarial assumptions that are consistent with accepted actuarial practice and with the requirements of the" *PBA* and Regulation.
5. Section 6(4) of the Regulation requires the actuary, as a part of the report required under section 14 prepared in respect of a multi-employer pension plan established pursuant to a collective agreement or a trust agreement, to do the following:
 - (a) perform such tests as will demonstrate the sufficiency of the contributions required by the collective agreement or agreements to provide for the benefits set out in the plan without consideration of any provision for reduction of benefits set out in the plan; or
 - (b) where the contributions are not sufficient to provide the benefits under the plan, propose options available to the administrator of the plan that will have the result that the required contributions will be sufficient to provide the benefits under the plan.
6. The *PBA* and Regulation require that an actuary consider the solvency position of the Plan in performing the tests referred to in section 6(4)(a) of the Regulation because the Regulation clearly requires the actuary to perform a valuation of a plan (including a MEPP) on a solvency basis.
7. The Board of Trustees of the Plan (the "Administrator") submitted a report for the Plan as required under section 14 valuing the Plan as at December 31, 2003. The report was revised and resubmitted in February 2005 (the "Report").
8. In the Actuarial Certificate at page 31 of the Report, the actuary states that "recognizing the benefit structure set out in the Plan, the solvency liability is no more than the assets in the Plan at any particular point in time. As at December 31, 2003, the solvency liability is equal to the market value of assets." This statement necessarily implies that solvency liabilities were determined on the basis that benefits in the Plan would be reduced to the market value of the assets. Such a method of computing solvency liabilities contravenes the express requirements of section 17(2) of the Regulation.
9. In the Addendum to Actuarial Certificate at page 33 of the Report, the Report appears to set out the computation of the solvency deficiency in accordance with the definition of that term set out in section 1 of the Regulation, employing a methodology for computing the solvency liabilities (referred to as "wind-up liabilities" therein) that appears to comply with section 17(2) of the Regulation. This computation reveals a solvency deficiency

of \$687,770,000 based on total Plan assets with a market value of \$1,133,327,000 as of December 31, 2003. If this is a computation of the solvency deficiency and solvency liability then the statement contained on page 31 of the Report that the solvency liabilities are equal to the market value of the assets is incorrect.

10. The Report does not comply with section 6(4)(a) of the Regulation because it does not contain "such tests as will demonstrate the sufficiency of the contributions ... to provide for the benefits set out in the plan without consideration of any provision for reduction of benefits set out in the plan." The tests performed to demonstrate the sufficiency of the contributions on a solvency basis that employ a methodology that complies with the *PBA* and Regulation indicate a significant solvency deficiency and, therefore, do not demonstrate the sufficiency of the contributions. The tests performed purporting to demonstrate the sufficiency of the contributions were only performed on a going concern basis or contained a computation of solvency liabilities which took into consideration Plan provisions for reduction of benefits set out in the Plan contrary to sections 17(2) and 6 (4)(a) of the Regulation.
11. Nor does the actuary in the Report "propose options available to the administrator of the plan that will have the result that the required contributions will be sufficient to provide the benefits under the plan" in accordance with section 6(4)(b) of the Regulation which is required in the absence of the tests referred to in section 6(4)(a).
12. Under section 88 of the *PBA* the Superintendent may make an order requiring the preparation of a new report

and specifying the assumptions or methods or both that shall be used in the preparation of a new report where, *inter alia*, the Superintendent is of the opinion that a report submitted in respect of a pension plan does not meet the requirements and qualifications of the *PBA*, regulations or pension plan. For the reasons set out above, the Report does not meet the requirements of the *PBA* or the Regulation.

13. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal of Ontario (the "Tribunal") pursuant to subsection 89(6) of the *PBA* if you deliver to the Tribunal, within thirty (30) days of the date of service of this Notice of Proposal, notice in writing requiring a hearing.¹ Any notice requiring a hearing should be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

IF YOU FAIL TO DELIVER TO THE TRIBUNAL WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED IN THIS NOTICE OF PROPOSAL.

DATED at Toronto, Ontario, this 7th day of July, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the “Act”);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Pension Plan for the Employees of International Controls Limited (the “Plan”)** Registration Number 1010537;

TO: Darlene Sundercock
Wind-Up Customer Service
Specialist
**London Life Insurance
Company**
255 Dufferin Avenue
London, ON N6K 4K1
Administrator

AND TO: Gail Taylor
Administrator
International Controls Limited
5375 Brendan Lane
Oldcastle, ON N0R 1L0
Employer

AND TO: Chester Cszypula
BDO Dunwoody
103-252 Pall Mall Street
London, ON N6A 5PA
Trustee in Bankruptcy

**NOTICE OF PROPOSAL TO MAKE AN
ORDER**

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective July 31, 2004 for the following reasons and such further reasons that may come to my attention:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The Employer failed to make contributions to the pension fund as required by this Act.
3. The Employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹.

ANY NOTICE REQUIRING A HEARING shall be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 14th day of July, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE – Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF an Application under subsection 78(1) of the *Act* submitted by **Alexander Metal Products (1965) Limited** in respect of the **Pension Plan for Employees of Alexander Metal Products (1965) Limited**, Registration Number 533273;

AND IN THE MATTER OF a Proposal to Require a New Report by the Superintendent of Financial Services under section 88 of the *Act* in respect of the **Pension Plan for Employees of Alexander Metal Products (1965) Limited**, Registration Number 533273 (the "Plan");

TO: **Alexander Metal Products (1965) Limited**
Employer and Administrator of the Plan

AND TO: **c/o Low, Murchison LLP**
Barristers and Solicitors
200 - 441 MacLaren St.
Ottawa, ON K2P 2H3

Attention: Daniel Scott.
Lawyers for the Employer and Administrator

NOTICE OF PROPOSAL

I PROPOSE TO REFUSE TO CONSENT, pursuant to subsection 78(1) of the *Act*, to the application for the withdrawal of surplus dated December 12, 2003 ("Surplus Application"), submitted by Alexander Metal Products (1965) Limited, (the "Employer") for the payment of surplus on the wind up of the Plan to the Employer.

I ALSO PROPOSE TO REQUIRE a new wind-up report to be prepared and filed which shall deal with the distribution of surplus related to the wind up of the Plan effective October 31, 2002, pursuant to sections 70 and 88 of the *Act*.

REASONS:

1. The Employer is the employer and administrator of the Plan. The Plan is a defined contribution pension plan.
2. The Employer submitted the Surplus Application on the basis that the Plan is being wound up. The Employer previously submitted a wind up report dated June 25, 2003 ("Wind up Report"), which was approved by FSCO July 4, 2003. The Wind up Report showed that there was no surplus in the Plan, and therefore did not provide for the payment of surplus.
3. In support of the Surplus Application the Employer attached a copy of a letter dated November 27, 2003 from Manulife Financial to Low, Murchison LLP, solicitors for the Employer, which states that there is surplus in the Plan as at October 2003 in the amount of \$99,048.20. The letter also states that this surplus arose from the conversion of a prior defined benefit plan to a money purchase plan.
4. By letter dated May 21, 2004, FSCO informed the solicitors for the Employer that staff had reviewed the Surplus Applications, and it had several concerns:
 - a. The Wind up Report submitted did not show that the plan has a surplus. It showed assets equal liabilities and that surplus was \$0.00. ;
 - b. The notices to members did not set out the following:

- (1) Methodology used to determine the surplus attributable to employee and employer contributions;
 - (2) There was no full and complete disclosure of all provisions of the plan and trust documents from the inception of the plan that may be relevant in determining entitlement to surplus on wind up. This includes the provisions in all current and prior plan texts, trusts agreements, insurance contracts, and other documents that may be relevant;
 - (3) It did not state that members, former members, or other affected persons may wish to obtain independent legal advice with respect to the Surplus Application and the proposed distribution agreement before they give any consent.
- c. The Surplus Application indicates at page 4 under the heading "Conditions Precedent to a Proposal to Consent" that "The Plan documentation does not make reference to the payment of any surplus"; and
- d. The Employer has not obtained the consent of at least two-thirds of the former members to the refund of surplus to the Employer. The Employer provided waivers signed by members in 1990, which were signed prior to the Surplus Application.
5. The solicitors for the Employer were advised by FSCO in the letter dated May 21, 2004, that the Surplus Application does not satisfy the requirements of the *Act*, Regulations and conditions set out in FSCO Policy. The employer was given specific information on the areas of non-compliance. The employer was also advised that failure to adequately demonstrate compliance may result in a refusal of the application.
6. In response to the May 21, 2004 letter from FSCO, the solicitors for the Employer by letter dated June 22, 2004 indicated that the letter from Manulife confirmed that there is surplus in the Plan. However, no new or revised wind up report was submitted in support of this position. The solicitors for the Employer also indicated that members already received the pension benefits that they bargained for in their employment agreement, and that the surplus arose entirely due to the employer's over contribution to the previous plan.
7. Subsection 79(3) of the *Act* provides in part that the Superintendent shall not consent to an application by an employer in respect of surplus in a pension plan that is being wound up in whole or in part unless: (a) he is satisfied, based on reports provided with the application, that the pension plan has a surplus; (b) the pension plan provides for the payment of surplus to the employer on the wind up of the plan; (d) the applicant and the pension plan comply with all the other requirements prescribed under other section of the *Act* in respect of the payment of surplus out of a pension fund.
8. Clause 8(1)(b) of Regulation 909, R.R.O. 1990, as amended ("the Regulations") provides that no payment may be made from the surplus out of a pension plan that is being wound up in whole or in part unless the payment is to be made with the written agreement of: (i) the employer, (ii) if there is no collective bargaining agent of the plan, at least two-thirds of the members of the plan;

- and (iii) such number of former members and other persons who are entitled to the payment under the plan on the date of the wind up of the plan as the Superintendent considers appropriate in the circumstances.
9. The Financial Services Commission of Ontario's ("FSCO") Policy No. S900-510 sets out the requirements for written agreements, pursuant to clause 8(1)(b) of the Regulations. It provides at section 19 that the Superintendent must be satisfied that the employer has provided the former members and other persons who are not currently represented by independent legal counsel with a reasonable opportunity to obtain independent legal advice with respect to the Surplus Application, and the employer has obtained the number of executed agreements required from affected members and others under the regulations.
 10. In respect of the level of consent, section 23 of FSCO Policy No. 5900-510 provides that in order to satisfy subclause 8(1)(b)(iii) of the Regulations, an applicant should obtain the written agreements of at least two-thirds of the aggregate of those former members and other persons entitled to payments under the pension plan at the date of wind up.
 11. Subsection 28(5) of the Regulations sets out the requirements of the notice of application, required under subsection 78(2) of the *Act*, for the payment of money that is surplus to the employer out of a pension plan. Specifically subsection 28(5)(c) provides that the notice shall contain the surplus attributable to the employee and employer's contributions and subsection 28(5)(f) requires that the notice must set out the contractual authority for surplus reversion.
 12. FSCO Policy S900-600 section 9, provides that with respect to clause 28(5)(f) of the Regulations, there must be full and complete disclosure of all provisions of the plan and trust documentation from the inception, that may be relevant in determining entitlement to the payment of surplus on wind up, including provisions in all current and prior plan texts, trust agreements, insurance contracts, employee booklets, employee notices and any other documents that may be relevant.
 13. Section 9 of FSCO Policy S900-600 also provides in part that the actual wording of all the provisions from the plan and trust documentation from the inception of the plan that may be relevant to surplus entitlement and to the question of authority to make the plan amendments must be cited in the Surplus Notice, along with the full analysis of their implications.
 14. The notice of application provided by the Employer to former members and other persons entitled to benefits under the Plan does not contain any reference to the provisions of the current Plan, prior plans or any other document that may be relevant. Further it does not set out the surplus attributable to employee and employer contributions, the contractual authority for surplus reversion, nor does it state that the former members or other affected persons may wish to obtain independent legal advice with respect to the Surplus Application and the surplus distribution agreement before they give any consent. Therefore, the Employer has not demonstrated that it has complied with subsection 78(2) of the *Act* and subsection 28(5) of the Regulations.

15. The consents from the former members of the Plan indicate that a surplus exists and grants approval for the withdrawal of said surplus for credit to the Employer. These consents are dated October 31, 1990, and predate the wind up of the Plan. Therefore, the Employer has not demonstrated that it has complied with sub clause 8(1)(b)(iii) of the Regulation, which requires the agreement of at least two-thirds of the former members of the Plan at the date of the wind up of the Plan.
16. The Wind up Report showed that there is no surplus in the plan. However, the Employer indicated in the Surplus Application that there is surplus. Section 30(f) of FSCO Policy 900-510 requires that the Surplus Application be accompanied by copies of the title pages and the balance sheet of the Wind up Report as of the effective date of the wind up giving rise to the Surplus Application and the actuary's certification from the Wind up Report or any supplemental wind up report. It further provides that a supplement to a wind up report will be required if the distribution of surplus is not addressed in the Wind up Report or the initial wind up report does not reflect the surplus distribution proposals outlined in the Surplus Application.
17. Section 88 of the *Act* provides that the Superintendent may require an administrator to prepare a new report where the report does not meet the requirements of the *Act*, and the Superintendent may specify the methods that shall be used in the preparation of the new report.
18. Such further and other grounds as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal of Ontario (the "Tribunal") pursuant to subsection 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
North York, ON M2N 6L9

Attention: The Registrar

For further information, contact the Registrar of the Tribunal by phone at 416-226-7752, or toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY REFUSE TO CONSENT TO THIS APPLICATION, AS PROPOSED IN THIS NOTICE OF PROPOSAL.

DATED at Toronto, Ontario, this 14th day of July, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act*, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the “Act”);

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Refuse to Make an Order under section 69 of the *Act* relating to the **Hydro One Pension Plan Registration Number 1059104 (the “Plan”)**;

TO: Ken Hartwick
Chief Financial Officer & Sr. V.P.
Hydro One Inc.
483 Bay St
South Tower, 10th Floor
Toronto, ON M5G 2P5

AND TO: **Hydro One Members Committee**
c/o Chris Marino
212 Donlea Drive
Toronto, ON M4G 2M9

AND TO: **Society of Energy Professionals**
425 Bloor Street East, Suite 300
Toronto, ON M4W 3R4

AND TO: **Power Workers’ Union**
244 Eglinton Avenue East
Toronto, ON M4P 1K2

NOTICE OF PROPOSAL

I PROPOSE TO REFUSE TO MAKE AN ORDER under section 69 of the *Act* that the Plan be wound up in part in relation to those members of the Plan whose employment terminated between January 1, 2000 and December 31, 2002.

REASONS FOR THE REFUSAL:

1. The Plan was established effective December 31, 1999, as the successor pension plan to the Ontario Electricity Financial Corporation Plan (which was formerly the Ontario Hydro Pension Plan and Insurance Plan).
2. The sponsor of the Plan, Hydro One Inc. (the “employer”), is the successor corporation to Ontario Hydro, having acquired its transmission, distribution and energy services business effective April 1, 1999. Hydro One has a number of subsidiaries, some of which include employees who are members of the Plan. The details of the employer’s corporate structure are set out below, to the extent it is relevant in considering the request for a partial wind up.
3. The request for a partial wind up of the plan is the result of a number of “initiatives” announced by the employer between November 1999 and August 2002, which resulted in members of the Plan ceasing to be employed between January 1, 2000 and December 31, 2002. The initiatives are described as follows
 - a) In November 1999 the employer announced a voluntary retirement program to be implemented in 2000 (the “VRP 2000”). It’s stated purposes were to reduce costs, and, by providing early retirement incentives to a large number of employees, adjust demographics to allow remaining employees to develop technical and leadership skills. It was a program authorized by the Board of Directors, approved by the two unions who represent most of the plan members (management employees are however

included in the plan), and was formalized through an amendment to the pension plan. It included the provision of enhanced pension benefits that met the requirements of s.74 of the Act. These benefits were paid for out of the pension plan surplus. The program was largely completed by May 1, 2000, but a number of employees stayed on until later in the year. The employer expected 500-700 terminations under this program, but accepted 1401;

- b) In September 2001 the employer implemented a Voluntary Separation Program for Management under which 22 management members were terminated. The employer states that this was conceived as part of a cost reduction measure in the 2002 budget and was entirely voluntary. No specific authorization was obtained from the Board of Directors of the employer and the employer asserts there is no documentation available to support the program prior to its implementation. No pension enhancements were offered as part of this program;
- c) On March 1, 2002 804 plan members were transferred to the Inergi LP Pension Plan Registration Number 1079714. The approval of this asset transfer under section 80 of the Act is still pending. There were 4 retirements and 33 terminations in Inergi during the period March 1, 2002 - April 1, 2003 and a further transfer of 238 members from Inergi to the Vertex Customer Management (Canada) Limited Pension Plan. An asset transfer under s.80 of the Act is also pending with respect to this transaction;

- d) On August 28, 2002 the employer announced the "remerging" of two Hydro One Inc. subsidiaries- Hydro One Networks Inc. and Hydro One Network Services Inc., and reducing layers of management within Hydro One. As a result, two termination programs were initiated. One was negotiated with the Society of Energy Professionals (the "Society") where the members who were selected were terminated on a voluntary basis. There were between 55 and 61 members of the Society whose employment ceased in this period. The other, an involuntary program for the management group, resulted in between 73 and 86 terminations. Neither group was offered growth in benefits under section 74 of the Act that are available when a plan is wound up in whole or in part. There were 413 members in the management group at this time, 806 in the Society and approximately 4000 in total in the Plan.
4. There is no evidence that these different initiatives are connected to each other to constitute one "discontinuance of all or part of the employers business" or one "reorganization of the business of the employer" as is required by section 69(1)(d). Each of the initiatives was undertaken as a result of business objectives that were identified at the time the initiative was made and was not directly connected to the other. There is no evidence that initiatives undertaken in 2001 and 2002 were connected to the VRP 2000.

5. The VRP 2000 did represent a significant number of plan members for purposes of s.69(1)(d). As indicated in the 1999 Hydro One Annual Report the electrical utilities industry was being restructured at that time and a new corporate structure was being implemented. The stated purposes of the VRP 2000 - cost reduction and a demographic adjustment in the workforce suggest that the 1401 employment terminations were a result of the reorganization of the business of the employer. Therefore, there are grounds for the Superintendent to consider a partial wind up under s.69(1)(d). However, the members who were terminated were part of a voluntary early retirement program. The members received benefits at least equal to those they would have received if there had been a partial wind up. The members also received benefit enhancements which would in the context of a partial wind up be considered distribution of surplus assets. Therefore it is appropriate for the Superintendent to exercise discretion and not order a partial wind up of the Plan with respect to the VRP 2000.
6. The Voluntary Separation Program in September 2001, which resulted in 22 management employees terminating employment did not result in a significant number of members of the pension plan ceasing to be employed and therefore there are no grounds for ordering a partial wind up with respect to this initiative under section 69(1)(d) of the Act.
7. The transfer of 804 employees to Inergi Inc. included a transfer of pension assets under section 80 of the Act for which approval is still pending. Where a transfer is made under section 80, the employment of the members is deemed to be continued and therefore there are no grounds for ordering a partial wind up with respect to this transaction. The termination of the employment of 33 plan members following their transfer to Inergi Inc. represent terminations from the Inergi Inc. plan and are not a consideration for this pension plan.
8. The "remerging" of two Hydro One Inc. affiliates - Hydro One Networks Inc and Hydro One Network Services Inc, and reducing layers of management within Hydro One, announced on August 22, 2002, resulted in the termination of between 55 and 61 Society members under a voluntary agreement, and the involuntary termination of between 73 and 86 management members. This remerging did constitute the reorganization of the business of the employer for the purposes of section 69(1)(d) of the Act. However, in the context of an active Plan membership of approximately 4000, this did not constitute a significant number of members of the plan ceasing to be employed. Therefore there are no grounds to order a partial wind up with respect to these initiatives.
9. Such further and other reasons that may come to my attention.

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the Act. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY REFUSE TO MAKE THE ORDER PROPOSED IN THIS NOTICE.

DATED at North York, Ontario, July 14th 2005.

K. David Gordon
Deputy Superintendent, Pension Division

c.c. Elizabeth M. Brown
Hicks, Morley
Dona Campbell
Sack Goldblatt Mitchell

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Pension Plan for the Employees of Toronto Victoria Financial Group Inc. (the "Plan") Registration Number 1084110;**

TO: Philip Schalk
Desjardins Financial Security
P.O. Box, Station A
Toronto, ON M5W 3M7
Administrator

AND TO: **Toronto Victoria Financial Group Inc.**
Ernest Y. L. Wong
8920 Woodbine Avenue,
Suite 301
Unionville, ON L3R 9W9
Employer

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective **October 25, 2003** for the following reasons and such further reasons that may come to my attention:

There was a cessation or suspension of employer contributions to the pension fund.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. **Any notice requiring a hearing shall be delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 8th day of August, 2005.

K. David Gordon
Deputy Superintendent, Pensions

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IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Pension Plan for the Employees of Erno Manufacturing Co. Limited, A Member Company of the Canadian Office Products Association (the "Plan")** Registration Number 0306449;

TO: Dominic Muro
Compliance Support Specialist
Group Savings and Retirement
The Standard Life Assurance Company
1245 Sherbrooke Street West,
Suite 1100
Montreal, PQ H3G 1G3
Administrator

AND TO: Mike Vanic
Director of Finance
Erno Manufacturing Co. Limited
19 Curity Avenue
Toronto, ON M4B 1X4
Employer

AND TO: Mike Mammoliti
KPMG Inc.
Suite 3300 Commerce Court West
PO Box 31 Stn Commerce Court
Toronto, ON M5L 1B2
Trustee in Bankruptcy

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound

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up effective **November 7, 2003** for the following reasons and such further reasons that may come to my attention:

The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. **Any notice requiring a hearing shall be delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 8th day of August, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the Act,
respecting the **Decor Products International,
A Division of Kleco Corporation Salaried
Pension Plan (the "Plan") Registration
Number 698076;**

TO: Darlene Sundercock
Wind-up Customer Service
Specialist
**London Life Insurance
Company**
255 Dufferin Avenue
London, ON N6A 4K1
Administrator

AND TO: Ron Henderson
Controller
Decor Products International
140 Bay Street
Midland, ON L4R 4L4
Employer

AND TO: Robert Harlang
RSM Richter Inc.
1900-200 King Street West
Toronto, ON M5H 3T4
Trustee in Bankruptcy

**NOTICE OF PROPOSAL TO MAKE AN
ORDER**

I PROPOSE TO MAKE AN ORDER under
section 69 of the Act that the Plan be wound
up effective **March 31, 2005** for the following
reasons and such further reasons that may
come to my attention:

1. Cessation or suspension of employer contributions to the pension fund.
2. All or a significant portion of the business carried on by the employer at a specific location was discontinued.
3. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹.
Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 8th day of August, 2005.

K. David Gordon
Deputy Superintendent, Pensions

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IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Premium Pork Canada Pension Plan (the "Plan") Registration Number 1103175;**

TO: Darlene Sundercock
Wind-up Customer Service
Specialist
London Life Insurance Company
255 Dufferin Avenue
London, ON N6A 4K1
Administrator

AND TO: Brenda Graham
Administrator
Premium Pork Canada Inc.
34694 Richmond Street
P.O. Box 131
Lucan, ON N0M 2J0
Employer

AND TO: Audrey Singels-Ludvik
KPMG Inc.
P.O. Box 31
199 Bay Street, Suite 3300
Toronto, ON M5L 1B2
Trustee in Bankruptcy

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective **June 30, 2004** for the following reasons and such further reasons that may come to my attention:

1. There was a cessation or suspension of

- employer contributions to the pension fund.
2. A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.
3. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 11th day of August, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the Act,
respecting the **Group Pension Plan for the
Employees of Collins Commercial Photo
Copy Limited (the "Plan") Registration
Number 0233866;**

TO: Darlene Stegner
Plan Design Specialist
Manulife Financial
500 King Street North KC-6
P.O. Box 396 Station Waterloo
Waterloo, ON N2J 4A9
Administrator

AND TO: Leslie Hildebrand
Administrator
Commercial Photo Copy
76 Geneva Street
St. Catharines, ON L2R 4M8
Employer

AND TO: Graeme Whitehead
BDO Dunwoody Limited
800 Quenston Road, Suite 202
P.O. Box 10
Stoney Creek, ON L8G 1A7
Trustee in Bankruptcy

**NOTICE OF PROPOSAL TO MAKE AN
ORDER**

I PROPOSE TO MAKE AN ORDER under
section 69 of the Act that the Plan be wound
up effective **November 10, 2004** for the
following reasons and such further reasons
that may come to my attention:

The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency
Act*.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the Act, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
**Any notice requiring a hearing shall be
delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at 416-
226-7752, toll free at 1-800-668-0128, ext. 7752,
or by fax at 416-226-7750.

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 11th day of
August, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 69 of the
Act, respecting the **Pension Plan for the
Employees of Daniel E. Oakes & Associates
Ltd. (the "Plan")** Registration Number
1071737;

TO: Dominic Muro
Compliance Support Specialist
The Standard Life
1245 Sherbrooke Street West
Montreal, PQ H3G 1G3
Administrator

AND TO: Joe Gauthier
Administrator
Daniel E. Oakes & Associates Ltd.
1501 Carling Avenue
Ottawa, ON K1Z 7M1
Employer

AND TO: Larry Hillier
Surgeon Carson Associates Inc.
99 Fifth Avenue, Suite 8
Ottawa, ON K1S 5K4
Trustee in Bankruptcy

**NOTICE OF PROPOSAL TO MAKE AN
ORDER**

I PROPOSE TO MAKE AN ORDER under
section 69 of the Act that the Plan be wound
up effective **January 31, 2005** for the following
reasons and such further reasons that may
come to my attention:

The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency
Act*.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the Act, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
**Any notice requiring a hearing shall be
delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at 416-
226-7752, toll free at 1-800-668-0128, ext. 7752,
or by fax at 416-226-7750.

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 22nd day of
August, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Pension Plan for A. Van Egmond Construction Ltd. (the Plan)** Registration Number 1096396;

TO: Darlene Sundercock
Wind-up Customer Service
Specialist
London Life Insurance Company
255 Dufferin Avenue
London, ON N6A 4K1
Administrator

AND TO: Wendy Plata
Administrator
A. Van Egmond Construction Ltd.
P.O. Box 520
Smithville, ON L0R 2A0
Employer

AND TO: Peter Pichelli Limited
Scott and Pichelli Limited
109-3600 Billings Court
Burlington, ON L7N 3N6
Trustee in Bankruptcy

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective **February 28, 2004** for the following reasons and such further reasons that may come to my attention:

1. There was a cessation or suspension of employer contributions to the pension fund.

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

2. The employer failed to make contributions to the pension fund as required by this Act.
3. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.
4. All or a significant portion of the business carried on by the employer at a specific location was discontinued.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 26th day of August, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Pension Plan for the Employees of Central Chrysler Plymouth (1981) Ltd. (the "Plan")** Registration Number 926527;

TO: Melissa Lambert
Plan Design Specialist
Manulife Financial
500 King Street North
P.O. Box 1602
Waterloo, ON N2J 4C6
Administrator

AND TO: John Sheldon
Administrator
Central Chrysler Plymouth (1981) Ltd.
790 Goyeau Street
Windsor, ON N9A 6P2
Employer

AND TO: Angela Pollard
Pollard and Associates
31 Wright Street
Richmond Hill, ON L4C 4A2
Trustee in Bankruptcy

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective **September 30, 2004** for the following reasons and such further reasons that may come to my attention:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹.
Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 26th day of August, 2005

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Oxford Automotive Canada Ltd. Pension Plan for Hourly Employees Located at the Wallaceburg Plant.**
Registration Number 364356;

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Shelley McIntyre
Manager, Compensation
& Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

AND TO: Bill Pollock
President
**United Auto Workers Union,
Local 251**
88 Elm Drive South
Wallaceburg, ON N8A 5E7
**Union representative for the
members of the Plan**

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective December 5, 2003 through March 1, 2004 for the following reasons and such further reasons that may come to my attention:

1. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.
2. All or a significant portion of the business carried on by the employer at a specific location was discontinued.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. **Any notice requiring a hearing shall be delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE

**A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 26th day of
August, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 69 of the
Act, respecting the **Pension Plan for the
Employees of Aimtronics Corporation (the
"Plan")** Registration Number 0415943;

TO: Darlene Sundercock
Wind-up Specialist
London Life Insurance Company
255 Dufferin Avenue
London, ON N6A 4K1
Administrator

AND TO: Betty Salmon
Administrator
Aimtronics Corporation
100 Schneider Road
Kanata, ON K2K 1Y2
Employer

AND TO: Ray Ali
Richter & Partners Inc.
90 Eglinton Avenue East
Suite 700
Toronto, ON M4P 2Y3
Receiver

**NOTICE OF PROPOSAL TO MAKE AN
ORDER**

I PROPOSE TO MAKE AN ORDER under
section 69 of the Act that the Plan be wound
up effective **October 3, 2002** for the following
reasons and such further reasons that may
come to my attention:

1. There was a cessation or suspension of
employer contributions to the pension fund.

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if
delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served
or delivered on the seventh day after the date of mailing.

2. The employer failed to make
contributions to the pension fund as
required by this Act.
3. The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency
Act*.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the Act, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
**Any notice requiring a hearing shall be
delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at 416-
226-7752, toll free at 1-800-668-0128, ext. 7752,
or by fax at 416-226-7750.

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 1st day of
September, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(1) of the
Act consenting to a payment out of **the Pension
Plan for Jerry Taylor, Registration No. 1014190;**

TO: **1065868 Ontario Inc.**
603 Trelawny Private
Ottawa, ON K2C 3M9

Attention: Jerry Taylor
Plan Administrator
Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER
under s. 78(1) of the Act, consenting to the
payment, out of the Pension Plan for Jerry
Taylor, Registration No. 1014190 (the Plan), to
1065868 Ontario Inc. in the amount of \$79,325
plus adjustments for investment returns and
expenses thereto.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS :

1. 1065868 Ontario Inc. is the employer as
defined in the Plan (the Employer)
2. The Plan was wound up, effective
September 18, 2003
3. As at September 18, 2003 the surplus in
the Plan was estimated at \$79,325
4. The Plan provides for payment of surplus to
the Employer on the wind up of the Plan
5. The application discloses that by written
agreement made by the Employer, and
the active member who is entitled to
payments under the plan, the surplus

in the Plan at the date of payment, after
deduction of wind up expenses is to be
distributed to the Employer

6. The Employer has applied, pursuant to
section 78 of the Act, and clause 8(1)(b)
of the Regulation, for consent of the
Superintendent of Financial Services to
the payment of 100% of the surplus in the
Plan (after adding investment earnings
and deducting the expenses related to the
wind up of the Plan.)
7. The application appears to comply with
section 78 and subsection 79(3) of the Act
and with clause 8(1)(b) of the Regulation.
8. Such further and other reasons as come to
my attention.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to subsection 89(6) of the Act if, within
thirty (30) days after this Notice of Proposal is
served on you, you deliver to the Tribunal a
written notice that you require a hearing.

Your written notice requiring a hearing must
be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
North York, ON M2N 6L9

Attention: The Registrar

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**



DATED at Toronto, Ontario, this 1st day of September, 2005.

K. David Gordon
Deputy Superintendent, Pensions

c.c.
Mr. William Johnston, Barrister & Solicitor
Mr. Allan J. Walton, Welton Parent Inc.

¹ NOTE—PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Pension Plan for the Employees of Community Christian Health Care Agency Hamilton Inc. (the "Plan")** Registration Number 1081801;

TO: Daniel P. Tyrrell
Pension Officer
Mackenzie Financial Corporation
150 Bloor Street West,
Suite M111
Toronto, ON M5B 3B5
Administrator

AND TO: D. Anthony McLean
President
Community Christian Health Care Agency Hamilton Inc.
1367 Upper James Street
Hamilton, ON L9B 1K2
Employer

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective **June 30, 2004** for the following reasons and such further reasons that may come to my attention:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer failed to make contributions to the pension fund as required by this Act.

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

3. A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. **Any notice requiring a hearing shall be delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 8th day of September, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Pension Plan for the Employees of the Graphicshoppe Limited** (the "Plan") Registration Number 0695676;

TO: Deborah Thompson
London Life Insurance Company
255 Dufferin Avenue
London, ON N6A 4K1
Administrator

AND TO: Cathy Shiers
Administrator
The Graphic Shoppe Limited
100 Carson Street
Toronto, ON M8W 3R9
Employer

AND TO: Alan Shiner
Shiner Kideckel Sweig
10 West Pearce Street, Suite 4
Richmond Hill, ON L4B 1B6
Trustee in Bankruptcy

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective **January 31, 2003** for the following reasons and such further reasons that may come to my attention:

The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. **Any notice requiring a hearing shall be delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 15th day of September, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Pension Plan for the Employees of Arpeco Engineering Limited (the "Plan")** Registration Number 968537;

TO: Deborah Thompson
Wind-Up Specialist
London Life Assurance Company
255 Dufferin Avenue
London, ON N6A 4K1
Administrator

AND TO: Kathy Reid
Administrator
Arpeco Engineering Limited
7095 Ordan Drive
Mississauga, ON L5T 1K6
Employer

AND TO: Gus Tertigas
Richter & Partners Inc.
200 King Street West, Suite 1900
P.O. Box 48
Toronto, ON M5H 3T4
Receiver

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the Act that the Plan be wound up effective **February 23, 2003** for the following reasons and such further reasons that may come to my attention:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer failed to make contributions to the pension fund as required by this Act.
3. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. **Any notice requiring a hearing shall be delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 15th day of September, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the “Act”);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(1) of
the Act consenting to a payment out of the
Pension Plan for **Employees of Advanced
Lighting Technologies, Canada Inc.,
Registration No. 483206;**

TO: **Advanced Lighting
Technologies, Canada Inc.**
10 Chandler Road
Amherst, NS B4H 4S9

Attention: R.G. Douglas Oulton
Vice President Finance &
Administration
Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(1) of the Act, consenting to the payment,
out of the Pension Plan for Employees of
Advanced Lighting Technologies, Canada
Inc., Registration No.483206 (the “Plan”), to
**Advanced Lighting Technologies, Canada
Inc.** in the amount of \$57,977.76 as of
September 30, 2004 adjusted for investment
earnings thereon to the date of payment.

I PROPOSE TO MAKE THE ORDER
effective only after the Applicant satisfies
me that all benefits pursuant to the Surplus
Distribution Agreement set out in paragraph
#5 below and any other payments to which
the members, former members, and any other
persons entitled to such payments have been
paid, purchased, or otherwise provided for.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS :

1. Advanced Lighting Technologies, Canada Inc. is the employer as defined in the Plan (the Employer).
2. The Plan was wound up, effective March 31, 1999.
3. As at March 31, 1999 the surplus in the Plan was estimated at \$191,870.31.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan
5. The application discloses that by written agreement made by the Employer, and 81.8% of the active members and 66.7% of the former members and other persons who are entitled to payments under the plan, the surplus in the Plan at the date of payment is to be distributed:
 - a) 27.99% to the Employer; and
 - b) 72.01% to the beneficiaries of the Plan as defined in the Surplus Distribution Agreement.
6. The Employer has applied, pursuant to section 78 of the Act, and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 27.99% of the surplus in the Plan (after adding 27.99% of investment earnings).
7. The application appears to comply with section 78 and subsection 79(3) of the Act and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to subsection 89(6) of the Act if,
within thirty (30) days after this Notice of
Proposal is served¹ on you, you deliver to the

Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 16th day of September, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE—pursuant to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 69 of the
Act, respecting the **Pension Plan for the
Employees of Baker Gurney & McLaren
Press Ltd. (the "Plan")** Registration Number
0971374;

TO: Melissa Lambert
Plan Design Specialist
Manulife Financial
P.O. Box 396
Delivery Station KC6
Waterloo, ON N2J 4A9
Administrator

AND TO: Anthony Hyland
C.F.O.
**Baker Gurney & McLaren
Press Ltd.**
800 Cochrane Drive
Markham, ON L3R 8C9
Employer

AND TO: Phyllis Gray
Sayers Buckworth Gray Inc.
15260 Yonge Street, Suite 203A
Aurora, ON L4G 1N4
Receiver

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under
section 69 of the Act that the Plan be wound
up effective December 31, 2003 for the
following reasons and such further reasons
that may come to my attention:

The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency
Act*.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the Act, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
**Any notice requiring a hearing shall be
delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at 416-
226-7752, toll free at 1-800-668-0128, ext. 7752,
or by fax at 416-226-7750.

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 28th day of
September, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

Notices of Proposal to Make a Declaration

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Oxford Automotive Canada Ltd. Pension Plan for Salaried Employees Located in Chatham and Wallaceburg, Ontario. Registration Number 1063023;**

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Ms. Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Ms. Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

NOTICE OF PROPOSAL TO MAKE A DECLARATION

WHEREAS:

1. The Oxford Automotive Canada Ltd. Pension Plan for Salaried Employees Located in Chatham and Wallaceburg, Ontario. Registration Number 1063023 (the "Plan"), is registered under the Act as Registration Number 1063023; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. On September 2, 2004 the employer assigned itself into voluntary bankruptcy; and
4. The Superintendent of Financial Services appointed Pricewaterhouse Coopers Inc. administrator of the Plan on October 12, 2004; and
5. On December 22, 2004 Pricewaterhouse Coopers Inc applied to the Superintendent of Financial Services for an Order that the Plan be wound up effective February 28, 2003 through March 1, 2004; and
6. On December 23, 2004 the administrator also filed an application for a Declaration that the Guarantee Fund applies to the Plan; and
7. The application for a Declaration includes an actuarial statement which indicates a deficiency in the Plan as at March 1, 2004 that would lead to a claim against the Guarantee Fund at that date of \$2,341,993; and
8. The administrator has also filed an application for an interim allocation of the Guarantee Fund in the amount of



\$3,030,440 determined as of September 30, 2004 based upon the actuarial evaluation referred to in 6. above; and

9. The administrator has been advised by the trustee in bankruptcy that there are unlikely to be any funds available for the Plan from the estate of the employer;

NOW THEREFORE TAKE NOTICE I PROPOSE TO CONSIDER MAKING A DECLARATION in respect of the Plan under section 83 of the Act that the Guarantee Fund applies to the Plan for the following reasons.

REASONS FOR THE PROPOSED DECLARATION:

1. There is a potential claim of \$3,030,440 against the Guarantee Fund based on the administrator's preliminary evaluation of the Plan as at September 30, 2004.
2. The employer, Oxford Automotive Canada Ltd., is bankrupt.
3. The administrator has been advised by the trustee in bankruptcy that there are unlikely to be any funds available for the Plan from the estate of the employer;
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.
5. If funds become available for the Plan from the Estate of Oxford Automotive Canada Ltd., the administrator will be required to make an appropriate refund of any allocation amounts received from the Guarantee Fund that are not needed for the Plan.
6. Such further reasons as may come to my attention.

YOU are entitled to a hearing by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
North York, ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario this 11th day of May, 2005.

K. David Gordon
Deputy Superintendent, Pensions.

¹ NOTE- pursuant to section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the *Act* relating to the **Oxford Automotive Canada Ltd. Pension Plan for Hourly Employees Located at the Wallaceburg Plant, Registration Number 364356;**

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Ms. Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Ms. Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

AND TO: Mr. Bill Pollock
President
**United Auto Workers Union,
Local 251**
88/Elm Drive South
Wallaceburg, ON N8A 5E7
**Union representative for the
members of the Plan**

NOTICE OF PROPOSAL TO MAKE A DECLARATION

WHEREAS:

1. The Oxford Automotive Canada Ltd. Pension Plan for Hourly Employees Located at the Wallaceburg Plant, (the "Plan"), is registered under the Act as Registration Number 364356; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. On September 2, 2004 the employer assigned itself into voluntary bankruptcy; and
4. The Superintendent of Financial Services appointed Pricewaterhouse Coopers Inc. administrator of the Plan on October 12, 2004; and
5. On December 22, 2004 Pricewaterhouse Coopers Inc applied to the Superintendent of Financial Services for an Order that the Plan be wound up effective December 5, 2003 through March 1, 2004; and
6. On December 23, 2004 the administrator also filed an application for a Declaration that the Guarantee Fund applies to the Plan; and
7. The application for a Declaration includes an actuarial statement which indicates a deficiency in the Plan as at March 1, 2004 that would lead to a claim against the Guarantee Fund at that date of \$7,317,480; and
8. The administrator has also filed an application for an interim allocation of the Guarantee Fund of \$9,048,154 determined as of September 30, 2004 based upon the actuarial evaluation referred to in 6. above; and

9. The administrator has been advised by the trustee in bankruptcy that there is unlikely to be any funds available for the Plan from the estate of the employer;

NOW THEREFORE TAKE NOTICE I PROPOSE TO CONSIDER MAKING A DECLARATION in respect of the Plan under section 83 of the Act that the Guarantee Fund applies to the Plan for the following reasons.

REASONS FOR THE PROPOSED DECLARATION:

1. There is a potential claim of \$9,048,154 against the Guarantee Fund based on the administrator's evaluation of the Plan as at September 30, 2004.
2. The employer, Oxford Automotive Canada Ltd., is bankrupt.
3. The administrator has been advised by the trustee in bankruptcy that there are unlikely to be any funds available for the Plan from the estate of the employer;
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.
5. If funds become available for the Plan from the Estate of Oxford Automotive Canada Ltd., the administrator will be required to make an appropriate refund of any allocation amounts received by the Plan from the Guarantee Fund that are not needed for the Plan.
6. Such further reasons as may come to my attention.

YOU are entitled to a hearing by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is

served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
North York, ON M2N 6L9

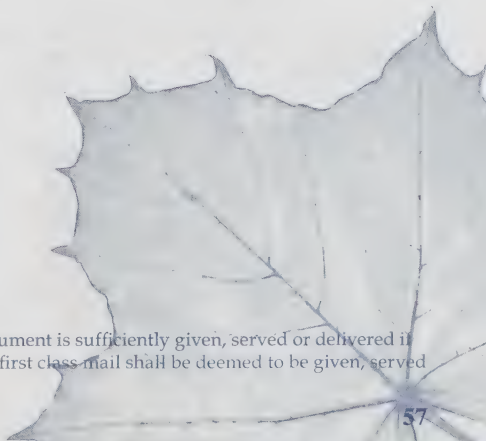
Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario this 11th day of May, 2005.

K. David Gordon
Deputy Superintendent, Pensions.

¹ NOTE- Pursuant to section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Oxford Automotive Canada Ltd. Pension Plan for Union Employees Located at the Cambridge Plant**, Registration Number 996926;

TO: Tony Karkheck
Senior Vice-President
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Ms. Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Ms. Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

AND TO: Mr. Sym Gill
National Director of Pensions
**Canadian Auto Workers Union,
Local 1986**
205 Placer Court
Toronto, ON M2H 3H9
**Union representative for the
members of the Plan**

NOTICE OF PROPOSAL TO MAKE A DECLARATION

WHEREAS:

1. The Oxford Automotive Canada Ltd. Pension Plan for Union Employees Located at the Cambridge Plant, (the "Plan"), is registered under the Act as Registration Number 996926; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. On September 2, 2004 the employer assigned itself into voluntary bankruptcy; and
4. The Superintendent of Financial Services appointed Pricewaterhouse Coopers Inc. administrator of the Plan on October 12, 2004; and
5. On December 22, 2004 Pricewaterhouse Coopers Inc applied to the Superintendent of Financial Services for an Order that the Plan be wound up effective October 11, 2000 through September 30, 2002; and
6. On December 23, 2004 the administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan; and
7. A preliminary actuarial valuation of the Plan at the wind up date accompanying the application described in 6. above,

discloses a claim against the Guarantee Fund of \$7,083,002; and

8. The administrator has also filed an application for an interim allocation of the Guarantee Fund of \$5,770,738 determined as of September 30, 2004; and
9. The administrator has been advised by the trustee in bankruptcy that there are unlikely to be any funds available for the Plan from the bankrupt estate of the employer;

NOW THEREFORE TAKE NOTICE I PROPOSE TO CONSIDER MAKING A DECLARATION in respect of the Plan under section 83 of the Act that the Guarantee Fund applies to the Plan for the following reasons.

REASONS FOR THE PROPOSED DECLARATION:

1. There is a potential claim of \$5,770,738 against the Guarantee Fund based on the administrator's evaluation of the Plan as at September 30, 2004.
2. The employer, Oxford Automotive Canada Ltd., is bankrupt.
3. The administrator has been advised by the trustee in bankruptcy that there are unlikely to be any funds available for the Plan from the estate of the employer;
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.
5. If funds become available for the Plan from the estate of Oxford Automotive Canada Ltd., the administrator will be required to make an appropriate refund of any allocation amounts received from the Guarantee Fund that are not needed for the Plan.

6. Such further reasons as may come to my attention.

YOU are entitled to a hearing by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
North York ON M2N 6L9

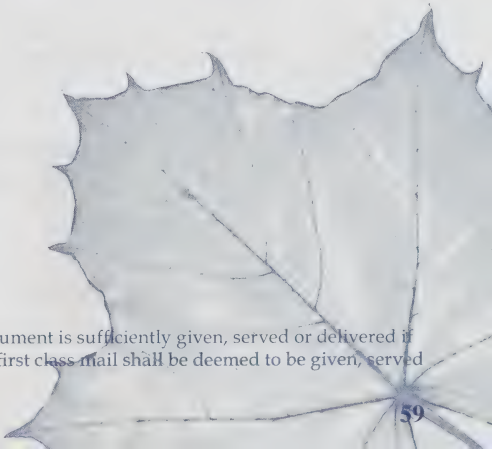
Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE DECLARATION PROPOSED HEREIN.

DATED at North York, Ontario this 11th day of May, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - pursuant to section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any documents sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 83 of the Act,
respecting the **Retirement Plan for Hourly
Employees of Imperial Home Decor Group
Canada ULC, Registration Number 596254;**

TO: Debbie Gallagher
Consultant
Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3
Administrator

AND TO: Tracy Kooser
Vice-President Human
Resources
**Imperial Home Decor Group
Canada ULC**
23645 Mercantile Road
Cleveland, OH 44122
U. S. A.
Employer

AND TO: Yves Vincent, CA
Richter & Associates Inc.
2 Place Alexis Nihon
Suite 2200
Montreal (Quebec) H3Z 3C2
Trustee in Bankruptcy

AND TO: Robert Smart
**Communications, Energy and
Paperworkers Union, Local 304**
5915 Airport Road
Suite 510
Mississauga ON L4V 1T1
Union Representative

NOTICE OF PROPOSAL TO MAKE A DECLARATION

I PROPOSE TO MAKE A DECLARATION
under section 83 of the Act that the Pension
Benefits Guarantee Fund (Guarantee Fund)
applies to the Plan for the following reasons:

1. The Plan is registered under the Act, and
2. The Plan provides defined benefits that
are not exempt from the application of
the Guarantee Fund by the Act or the
regulations made thereunder, and
3. The plan was wound up effective **June 30,
2001;** and
4. There are reasonable and probable
grounds that the funding requirements
of the Act and regulations cannot be
satisfied. Based on the latest actuarial
certification, the administrator has
estimated the deficit in the plan at the
wind up date to be **\$2,117,532 with a
projected value of \$4,051,350 at June 30,
2003.** If funds become available from the
estate of the employer, the administrator
will be required to make an appropriate
refund of any allocation amount received
by the Plan from the Guarantee Fund.

YOU ARE ENTITLED TO A HEARING
by the Financial Services Tribunal (the
"Tribunal") pursuant to section 89(6) of the
Act, if, within thirty (30) days after the Notice
of Proposal is served on you, you deliver to
the Tribunal a written notice that you require
a hearing¹. **Any notice requiring a hearing
shall be delivered to the:**



Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226 7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 18th day of May, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make a Declaration under section 83 of the
Act, respecting the **Pension Plan for Hourly-
Rated Employees of Dunlop (Canada) Inc.
who are Members of Local 974 (USWA) (the
"Plan") Registration Number 0375048;**

TO: Sharon Carew
Director
PricewaterhouseCoopers Inc.
Mississauga Executive Centre
One Robert Speck Parkway
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: **Dunlop (Canada) Inc.**
330 Byron Street South
Whitby, ON L1N 4P8
Employer

AND TO: Jake Weibe
Grant Thornton Limited
P.O. Box 55, Royal Bank Plaza
19th Floor, South Tower
Toronto, ON M5J 2P9
Trustee in Bankruptcy

AND TO: John O'Connor
330 Byron Street South
Oshawa, ON L1H 7N1
Union Representative

NOTICE OF PROPOSAL TO MAKE A DECLARATION

I PROPOSE TO MAKE A DECLARATION
under section 83 of the Act that the Pension
Benefits Guarantee Fund applies to the Plan
for the following reasons and such further
reasons that may come to my attention:

1. The Plan is registered under the Act, and
2. The Plan provides defined benefits that
are not exempt from the application of the
Pension Benefits Guarantee Fund by the
Act or the regulations made thereunder,
and
3. The Deputy Superintendent has issued a
Notice of Proposal to wind up the Plan
effective between **October 22, 2004 and
October 29, 2004**, and
4. There are reasonable and probable
grounds that the funding requirements
of the Act and regulations cannot be
satisfied. Based on the latest actuarial
certification, there is an estimated claim
against the Pension Benefits Guarantee
Fund of **\$383,100** as at February 28, 2005.
If funds become available from the estate
of the employer, the administrator will be
required to make an appropriated refund
of any allocation amount received by the
Plan from the Pension Benefits Guarantee
Fund.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the Act, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
**Any notice requiring a hearing shall be
delivered to the:**



Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 14th day of July 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the
Superintendent of Financial Services to make
a Declaration under section 83 of the Act,
respecting the **Pension Plan for Employees
of Procast Foundries Inc. (the "Plan")**
Registration Number 586073;

TO: Marian McKillop
Practice Leader, DB Plans
Corporate Benefit Analysts, Inc.
640 Riverbend Drive
Kitchener, ON N2K 3S2
Administrator

AND TO: Steve Sample
President & General Manager
Procast Foundries Inc.
19 Church St. E.
Elmira, ON N3B 2K9
Employer

AND TO: John Readman
Trustee in Bankruptcy
KPMG Inc.
Marsland Centre
20 Erb St. W.
Waterloo, ON N2L 1T2
Trustee in Bankruptcy

AND TO: David Doyle
International Vice-President,
Local #445
**Glass, Molders, Pottery,
Plastics & Allied Workers
International Union**
9 Baptiste Street
Trenton, ON K8V 1V4
Union Representative

NOTICE OF PROPOSAL TO MAKE A DECLARATION

I PROPOSE TO MAKE A DECLARATION
under section 83 of the Act that the Pension
Benefits Guarantee Fund applies to the Plan
for the following reasons and such further
reasons that may come to my attention:

1. The Plan is registered under the Act, and
2. The Plan provides defined benefits that
are not exempt from the application of the
Pension Benefits Guarantee Fund by the
Act or the regulations made thereunder,
and
3. The plan was wound up effective
September 30, 2000, and
4. There are reasonable and probable
grounds that the funding requirements
of the Act and regulations cannot be
satisfied. The administrator has estimated
the deficit in the plan at the wind up date
to be \$50,354. Based on the latest actuarial
certification, there is an estimated claim
against the Pension Benefits Guarantee
Fund of \$72,539. If funds become available
from the estate of the employer, the
administrator will be required to make
an appropriated refund of any allocation
amount received by the Plan from the
Pension Benefits Guarantee Fund.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the Act, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
**Any notice requiring a hearing shall be
delivered to the:**



Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 26th day of September, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

Notices of Proposal to Refuse to Make an Order

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P8, as amended (the "Act");

AND IN THE MATTER OF a request made by Donna Capaldi, beneficiary of Tony (Antonio) Capaldi, to the Superintendent of Financial Services for an order compelling the payment of certain benefits from the **Retirement Income Plan for Union Employees of Dominion Stores Limited (1979)**, Registration No. 0005188 (the "Plan");

TO: Donna Capaldi
Beneficiary of Tony (Antonio) Capaldi
5 Peer Drive
Guelph, ON N1C 1G9
Applicant

AND TO: Domgroup Ltd.
10 Toronto Street
Toronto, ON M5C 2B7

Attention: Marianne Petkovic
Pensions & Benefits
Employer and Administrator of the Plan

NOTICE OF PROPOSAL

I PROPOSE TO REFUSE TO MAKE AN ORDER under sections 42(5), 42(11), and 87(2)(c) of the Act, compelling the administrator of the Plan to pay certain pension benefits to Donna Capaldi, beneficiary of Tony (Antonio) Capaldi, a former member of the Plan (the "Applicant").

REASONS FOR THE REFUSAL:

1. Tony (Antonio) Capaldi ("Mr. Capaldi") is a former member of the Plan.
2. On or about November 8, 1989, Mr. Capaldi signed an election to have the locked in and non-locked-in portions of his pension entitlement under the Plan transferred from the Plan to his Registered Retirement Savings Plan with National Trust (now Scotiabank) (the "RRSP").
3. The locked-in portion of Mr. Capaldi's pension entitlement under the Plan as at November 8, 1989 totalled the sum of \$4,236.40. The non-locked-in portion of Mr. Capaldi's pension entitlement under the Plan as at November 8, 1989 totalled the sum of \$1,412.13.
4. Mr. Capaldi claims that the locked-in portion of his pension entitlement under the Plan - \$4,236.40 as at November 8, 1989 - was never transferred to the RRSP.
5. Domgroup Ltd. has produced or caused to produce the following proof that the locked-in portion of Mr. Capaldi's pension entitlement under the Plan was in fact transferred to the RRSP:
 - a) confirmation from Industrial Alliance (the Plan custodian) that a cheque numbered 4691080 dated November 30, 1989 in the amount of \$5,979.38 was cashed on December 13, 1989;
 - b) a handwritten list from Industrial Alliance showing transaction number 91, Tony Capaldi, November 30, 1989, number 4691080, \$5,979.38;
 - c) a list of cash payments from Industrial Alliance showing a cash entitlement of \$5,648.53 as at May 3, 1989, and an amount paid of \$5,979.38 on the same line as "T. Capaldi", and the number 91;

- d) a list of cheques issued by Industrial Alliance showing a payment of \$5,979.38 on November 13, 1989, transaction number 4691080.
6. The Applicant has produced a letter from Scotiabank which states that "it appears that National Trust did not receive a pension payment in the amount of \$4236.40 in 1989 for Mr. Capaldi" and a second letter from Scotiabank which states that in November 1999 Scotiabank transferred Mr. Capaldi's RRSP to Asante Financial and that "the amount that was transferred at that time was \$1,412.31."
7. Due to the passage of time, no one has been able to produce a cancelled cheque.
8. Section 42(1)(b) of the Act states that a former member of a pension plan who terminates employment or ceases to be a member of the plan and who is entitled to a deferred pension, is entitled to require the administrator to pay an amount equal to the commuted value of the deferred pension into a prescribed retirement savings arrangement.
9. Section 42(5) of the Act further states that the administrator shall comply with the former member's direction for transfer of funds within the prescribed period of time after the member has delivered the direction.
10. Section 42(11) of the Act states: 42(11) The administrator is discharged on making the payment or transfer in accordance with the direction of the former member if the payment or transfer complies with this Act and the regulations.
11. Given the passage of time, Domgroup Ltd. has produced the best evidence possible that the full payment of \$5,979.38 was in fact made pursuant to Mr. Capaldi's direction.

12. Section 87(2)(c) of the Act states that the Superintendent may require any person to take any action in respect of a pension plan or pension fund if the Superintendent is of the opinion, upon reasonable and probable grounds, that the administrator of the pension plan, the employer, or the other person is contravening a requirement of the Act and the regulations.
13. The Applicant has not sufficiently demonstrated that Domgroup Ltd. did not comply with section 42(5) of the Act.
14. Such further and other reasons as may come to my attention.

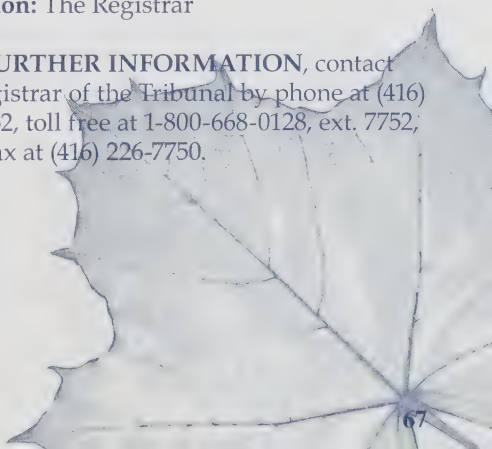
YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the Act. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you¹.

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at (416) 226-7752, toll free at 1-800-668-0128, ext. 7752; or by fax at (416) 226-7750.



**IF YOU FAIL TO REQUEST A HEARING
WITHIN THIRTY (30) DAYS, I MAY
REFUSE TO APPROVE THE REPORT AND
ORDER A NEW REPORT, AS PROPOSED
IN THIS NOTICE.**

DATED at North York, Ontario, this 10th day
of May, 2005.

K. David Gordon
Deputy Superintendent, Pension Division
By Delegated Authority

¹ NOTE - Pursuant to section 112 of the Act, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O.1990, c.P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal to Refuse to Approve a partial wind up report by the Superintendent of Financial Services under section 70 of the Act, relating to the **Pension Trust for Salaried Employees of Fisher Controls Inc., Registration No. 0390815;**

AND IN THE MATTER OF a Proposal to Require a New Report by the Superintendent of Financial Services under section 88 of the Act, relating to the **Pension Trust for Salaried Employees of Fisher Controls Inc., Registration No. 0390815;**

TO: **Fisher Controls, a Division of Emerson Electric Canada Inc.**
13 Viola Court
Delhi, ON N4B 3C9

Attention: Michele de Dobbelaer
Regional Human Resources
Manager
Employer and Administrator

NOTICE OF PROPOSAL

I PROPOSE TO REFUSE TO APPROVE the Pension Trust for Salaried Employees of Fisher Controls Inc. Partial Windup Report as at December 31, 1993 dated January 2001 (the "Report") relating to the **Pension Trust for Salaried Employees of Fisher Controls Inc., Registration No. 0390815** (the "Plan"), pursuant to section 70 of the Act.

I ALSO PROPOSE TO REQUIRE A NEW REPORT to be prepared and filed within sixty (60) days from the date of this

Notice of Proposal, which shall deal with the distribution of surplus related to the partial wind up effective December 31, 1993 pursuant to sections 70 and 88 of the Act.

REASONS:

1. Fisher Controls, a Division of Emerson Electric Canada Inc. ("Fisher") is the employer and administrator of the Plan.
2. Fisher filed the Report respecting the closure of its plant in Cambridge, Ontario, effective as at December 31, 1993. The Report states that there is an excess of wind up assets over wind up liabilities in the amount of \$421,500.
3. The Report is silent respecting the distribution of surplus on partial wind up.
4. On December 16, 2002, authorization was given to the Plan Administrator to distribute the assets in accordance with the Report with the exception of surplus assets, pursuant to subsection 70(3) of the Act.
5. The December 16, 2002 letter references subsection 70(6) of the Act and states: "When the proposals for the distribution of the surplus assets are found to be acceptable, we shall proceed with the approval of the partial wind-up report."
6. Subsection 70(6) of the Act provides: On the partial wind up of a pension plan, members, former members and other persons entitled to benefits under the pension plan shall have rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up.
7. On July 29, 2004, the Supreme Court of Canada released its decision in the case of *Monsanto Canada Inc. v. Ontario (Superintendent of Financial Services)* and

held that subsection 70(6) of the Act requires the distribution of actuarial surplus related to the part of the plan being wound up, on the effective date of the partial wind up.

8. On August 19, 2004, a letter was sent to the Plan Administrator stating that now that the law was certain in light of *Monsanto*, an updated funding position was required to be filed and signed by an actuary who is a Fellow of the Canadian Institute of Actuaries by October 18, 2004. The letter also stated that a plan and timetable for the distribution of any surplus was required by October 18, 2004.
9. No response was received to the August 19, 2004 letter. A reminder letter was therefore sent to the Plan Administrator on November 4, 2004. The reminder letter stated that the updated funding position and plan and timetable for the distribution of surplus were required to be filed by December 6, 2004. The reminder letter also stated that the authority for requiring this information is section 98 of the Act.
10. Section 98 of the Act provides that the Superintendent may require an employer, an administrator, or any other person to supply such information in such form as is acceptable to the Superintendent and within such time limits as may be specified, for the purpose of ascertaining whether or not the Act and regulations are being complied with.
11. No response was received to the November 4, 2004 reminder letter. A second reminder letter was therefore sent to the Plan Administrator on March 3, 2005. The second reminder letter stated that in view of the delay that had already occurred, the updated funding position and plan and timetable for the distribution of surplus were required to be filed by April 2, 2005. The second reminder letter also referenced section 98 of the Act and noted that it is an offence under section 109 of the Act to contravene section 98.
12. No response has been received to date to the March 3, 2005 second reminder letter.
13. Subsection 70(5) of the Act provides that the Superintendent may refuse to approve a wind up report that does not meet the requirements of the Act and the regulations or that does not protect the interests of the members and former members of the pension plan.
14. The Report does not meet the requirements of the Act because it does not comply with subsection 70(6) of the Act.
15. Section 88 of the Act provides that the Superintendent may require an administrator to prepare a new report where a report does not meet the requirements of the Act, and that the Superintendent may specify the methods that shall be used in the preparation of the new report.
16. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the Act. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days¹ after this Notice of Proposal is served on you.



YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at (416) 226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at (416) 226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY REFUSE TO APPROVE THE REPORT AND ORDER A NEW REPORT, AS PROPOSED IN THIS NOTICE.

DATED at Toronto, Ontario, July 14, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - pursuant to section 112 of the *Act*, any Notice, Order, or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

Orders that Pension Plans be Wound Up

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the *Act*,
respecting **Pension Plan for Employees of
Auto-Administrator Int'l Inc., Registration
Number 1035138 (the "Pension Plan")**;

TO: **The Manufacturers Life
Insurance Company**
500 King North
P.O. Box 1602
Waterloo, ON N2J 4C6

Attention: Karen Osborne
Plan Design Specialist
**Administrator of the Pension
Plan**

AND TO: **Auto-Administrator Int'l Inc.**
230-747 Hyde Park Road
London, ON N6H 3S3

Attention: N. Leigh Folliott
Vice-President, Finance
Employer

AND TO: **McLay & Company Inc.**
562 Waterloo Street
London, ON N6B 2P9

Attention: Brian McLay
**Trustee in Bankruptcy for
Auto-Administrator Int'l Inc.**

ORDER

ON the 20th day of January, 2005, the Deputy
Superintendent, Pensions, issued a **Notice of
Proposal to make an Order** dated the 20th
day of January, 2005, pursuant to subsection
69(1) of *Act* to the Administrator and to the
Employer to wind up in whole the **Pension
Plan**.

NO Notice requiring a hearing was
delivered to the Financial Services Tribunal,
("Tribunal") within the time prescribed by
subsection 89(6) of the *Act*.

IT IS THEREFORE ORDERED that the
Pension Plan be wound up in full effective
December 31, 1999 for the following reasons:

1. there was a cessation or suspension of
employer contributions to the pension
fund;
2. the employer failed to make contributions
to the pension fund as required by the *Act*
or regulations;
3. All or a significant portion of the business
carried on by the employer at a specific
location is discontinued;
4. the employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency
Act*.

DATED at Toronto, Ontario, this 10th day of
March, 2005.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Deputy Superintendent, Pensions, to Make an Order under section 69 of the Act relating to the **Pension Plan for Hourly Employees of Ford-Smith Machine Company Limited**, Registration Number 541565 (the "Plan");

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention: David R. Kearney, Senior
Consultant
Administrator

AND TO: **Ford-Smith Machine Company Limited.**
901 Arvin Avenue
Stoney Creek, ON L8E 5N9

Attention: Brian Thwaites
Employer

AND TO: **Grant Thornton Limited**
19th Floor, South Tower
Royal Bank Plaza
200 Bay Street, Box 55
Toronto, ON M5J 2P9

Attention: Mr. Jake Weibe
Interim Receiver

AND TO: **United Steelworkers of America, Local 4843**
1031 Barton Street East
Hamilton, ON L8L 3E3

Attention: Roy Leslie
Union Representative for the members of the Plan

ORDER

ON or about January 20, 2005 the Deputy Superintendent, Pensions, issued a Notice of Proposal dated January 20, 2005 to make an Order that the Plan be wound up in whole effective December 3, 2001 through July 2, 2003 pursuant to section 69(1) of the Act.

NO REQUEST for a hearing has been received by the Financial Services Tribunal in connection with this matter.

I THEREFORE ORDER that the Plan be wound up in whole effective December 3, 2001 through July 2, 2003.

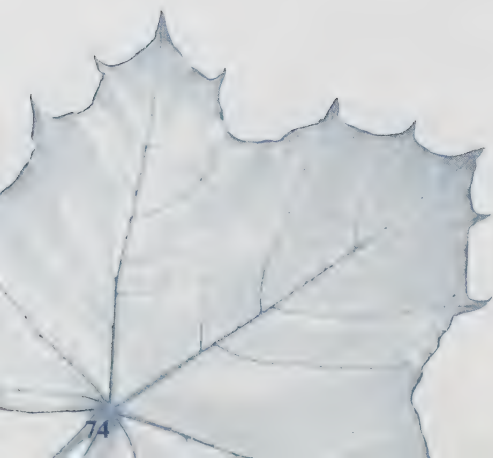
REASONS:

1. Cessation or suspension of employer contributions to the pension fund, pursuant to clause 69(1)(a) of the Act.
2. Failure of the Employer to make contributions to the pension fund of the Plan as required by the Act or the regulations, pursuant to clause 69(1)(b) of the Act.
3. A significant number of members have ceased to be employed by the employer as the result of the discontinuance or reorganization of all or part of business of the employer pursuant to clause 69(1)(d) of the Act.

4. All or a significant part of the business has been discontinued at a specific location, pursuant to clause 69(1)(e) of the Act.

DATED at North York, Ontario, this 18th day of March, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority From the
Superintendent of Financial Services





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Deputy Superintendent, Pensions to Make an Order under section 69 of the Act relating to the **Non-Contributory Retirement Plan for Salaried Employees of Ford-Smith Machine Company Limited, Registration Number 288845** (the "Plan");

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention: David R. Kearney, Principal
Administrator

AND TO: **Ford-Smith Machine Company Limited.**
901 Arvin Avenue
Stoney Creek, ON L8E 5N9

Attention: Brian Thwaites
Employer

AND TO: **Grant Thornton Limited**
19th Floor, South Tower
Royal Bank Plaza
200 Bay Street, Box 55
Toronto, ON M5J 2P9

Attention: Mr. Jake Weibe
Interim Receiver

ORDER

ON or about January 20, 2005 the Deputy Superintendent, Pensions, issued a Notice of Proposal dated January 20, 2005 to make an Order that the Plan be wound up in whole effective May 16, 2003 through July 18, 2003 pursuant to section 69(1) of the Act.

NO REQUEST for a hearing has been received by the Financial Services Tribunal in connection with this matter.

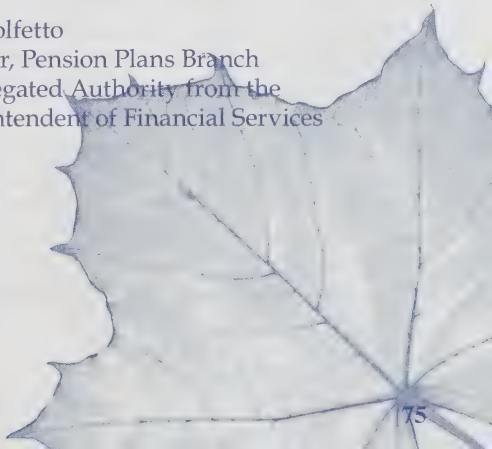
I THEREFORE ORDER that the Plan be wound up in whole effective May 16, 2003 through July 18, 2003.

REASONS:

1. A significant number of members have ceased to be employed by the employer as the result of the discontinuance or reorganization of all of part of business of the employer pursuant to clause 69(1)(d) of the Act.
2. All or a significant part of the business has been discontinued at a specific location, pursuant to clause 69(1)(e) of the Act.

DATED at North York, Ontario, this 18th day of March 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O.1990, c.P.8, as amended (the “Act”);

AND IN THE MATTER OF a Notice
of Proposal to Make an Order issued by
the Superintendent of Financial Services
requiring the Wind Up of the **Eaton Yale
Ltd. Pension Plan for Salaried Employees
of Cutler-Hammer Canada Operations,
Registration Number 440396;**

TO: **Eaton Corporation**
1111 Superior Avenue
Eaton Centre 2235
Cleveland, OH 44114-2584

Attention: Robert Parmenter
Vice President Treasurer
**Employer and Administrator of
the Eaton Yale Ltd. Pension
Plan for Salaried Employees of
Cutler-Hammer Canada
Operations**

ORDER

ON or about the 27th day of June, 2000, the
Superintendent of Financial Services (the
“Superintendent”) issued a **NOTICE OF
PROPOSAL TO MAKE AN ORDER** dated
June 22, 2000 (the “Notice of Proposal”) to
the Employer and Administrator of the
Eaton Yale Ltd. Pension Plan for Salaried
Employees of Cutler-Hammer Canada
Operations, Registration No. 440396 (the
“Plan”) wherein she proposed to order the
Plan wound up in part under section 69(1)(e)
of the *Act* in relation to those members and
former members of the Plan who ceased to be
employed by Eaton Yale Ltd. from February
23, 1994 to January 12, 1995 as a result of
the closure of two manufacturing facilities

located at Mount Forest, Ontario and St-Jean-
sur-Richelieu, Québec, on or about February
23, 1994.

ON or about the 4th day of August, 2000,
Eaton Corporation requested a hearing by the
Financial Services Tribunal (the “Tribunal”).

ON or about the 9th day of November,
2000, the Tribunal adjourned the hearing
on consent of Eaton Corporation and the
Superintendent, on a *sine die* basis.

ON or about the 14th day of March, 2005,
Eaton Corporation withdrew its request for
a hearing.

NO other request for a hearing with respect
to the Notice of Proposal has been made.

THEREFORE the Superintendent:

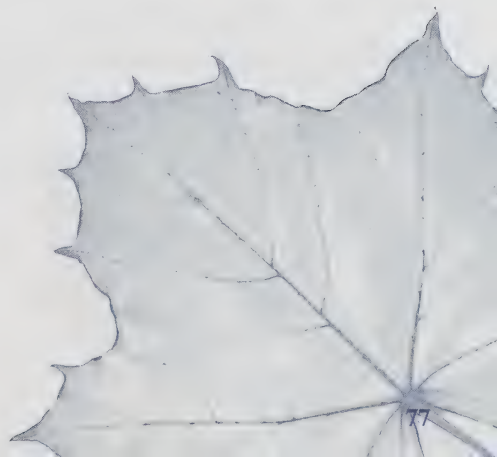
1. **ORDERS** Eaton Corporation, pursuant to
section 69(1)(e) of the Act, to wind up in
part the Eaton Yale Ltd. Pension Plan for
Salaried Employees of Cutler-Hammer
Canada Operations, Registration Number
440396, in relation to those members and
former members of the Plan who ceased
to be employed by Eaton Yale Ltd. from
February 23, 1994 to January 12, 1995, as a
result of the closure of two manufacturing
facilities located at Mount Forest, Ontario
and St-Jean-sur-Richelieu, Québec, on or
about February 23, 1994.
2. **ORDERS** Eaton Corporation to file a
partial wind up report with respect to
the above partial wind up within 60 days
from the date on this Order.

REASONS FOR THE ORDER:

1. On or about February 23, 1994, Eaton Yale Ltd. discontinued all or part of its business at the manufacturing facilities located at Mount Forest, Ontario and St-Jean-sur-Richelieu, Québec.
2. The 8 affected members at the Mount Forest, Ontario location ceased to be employed by Eaton Yale Ltd. between February 23, 1994 and September 30, 1994. The 71 affected members at the St-Jean-sur-Richelieu, Québec location ceased to be employed by Eaton Yale Ltd. between February 23, 1994 and January 12, 1995.
3. There was no distribution of surplus on plant closure to the affected Ontario members. On a partial wind up, the surplus allocable to the partial wind up must be allocated and distributed pursuant to sections 1, 70(1)(a) and (c), and 70(6) of the Act.
4. There was no partial wind up report filed by Eaton Yale Ltd.; therefore, the rights of the Québec members affected by the plant closure to any distribution of surplus on future full wind up of the Plan have not been protected as required by the Quebec Supplemental Pension Plans Act.

DATED at Toronto, Ontario, this 19th day of April, 2005.

K. David Gordon
Deputy Superintendent, Pension Division





IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the Act,
respecting the **Proboard Limited Employees'**
Pension Plan Registration Number 593814
(the "Plan");

TO: Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention: David R. Kearney
Administrator

AND TO: Steve Geddes
Director of Finance
Proboard Limited
P.O. Box 1600
Atikokan, ON P0T 1C0
Employer

AND TO: Brian Deazeley CA CIRP
ISCA Financial Services
2172 Dunvegan Avenue
Oakville, ON L6J 6P1
Trustee in Bankruptcy

AND TO: Rene Lindquist
National Representative
Communications, Energy and
Paperworkers of Canada
(Local 49-0)
516 South High Street
Thunder Bay, ON P7B 3M3
Union representative

ORDER

NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the Act
respecting a Notice of Proposal to make an
Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan
be wound up in full effective **May 30, 2003**
through October 6, 2003 for the following
reasons:

1. There is a cessation or suspension of
employer contributions to the pension
fund.
2. Failure of the employer to make
contributions to the pension fund as
required by the Act or the regulations.
3. The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency*
Act.
4. A significant number of members of
the pension plan ceased to be employed
by the employer as a result of the
discontinuance of all or part of the
business of the employer or as a result of
the reorganization of the business of the
employer.
5. All or a significant portion of the business
carried on by the employer at a specific
location was discontinued.

DATED at Toronto, Ontario, this 7th day of
July, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Oxford Automotive Canada Ltd. Pension Plan for Salaried Employees Located in Chatham and Wallaceburg, Ontario, Registration Number 1063023;**

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

ORDER

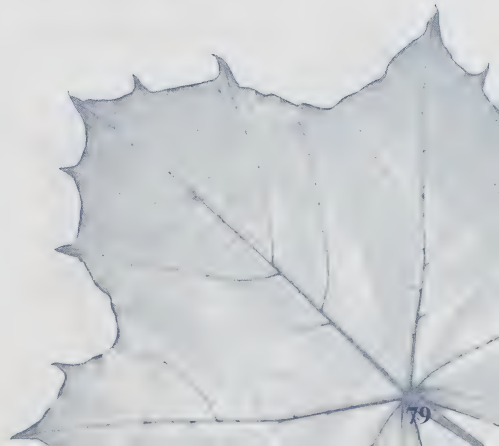
NO request requiring a hearing was delivered to the Financial Services Tribunal within the time prescribed by subsection 89(6) of the Act respecting a Notice of Proposal to make an Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan be wound up in full effective February 28, 2003 through March 1, 2004 for the following reasons:

1. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.
2. A significant number of members have ceased to be employed by the employer as the result of the discontinuance or reorganization of all or part of the business of the employer.

DATED at Toronto, Ontario, this 7th day of July, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services





IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the Act,
respecting the **Oxford Automotive Canada
Ltd. Pension Plan for Union Employees
Located at the Cambridge Plant Registration
Number 996926;**

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

AND TO: Sym Gill
National Director of Pensions
**Canadian Auto Workers Union,
Local 1986**
205 Placer Court
Toronto, ON M2H 3H9
Union representative

ORDER

NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the Act
respecting a Notice of Proposal to make an
Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan
be wound up in full effective October 11, 2000
through September 30, 2002 for the following
reasons:

1. The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency
Act*.
2. All or a significant portion of the business
carried on by the employer at a specific
location was discontinued.

DATED at Toronto, Ontario, this 21st day of
July, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the Act,
respecting the **Oxford Automotive Canada
Ltd. Pension Plan for Hourly Employees
Located at the Wallaceburg Plant.**
Registration Number 364356;

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

AND TO: Bill Pollock
President
**United Auto Workers Union,
Local 251**
88 Elm Drive South
Wallaceburg, ON N8A 5E7
Union representative

ORDER

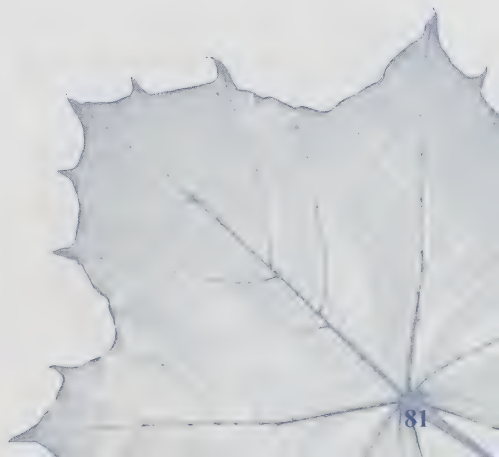
NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the Act
respecting a Notice of Proposal to make an
Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan
be wound up in full effective December 5,
2003 through March 1, 2004 for the following
reasons:

1. The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency
Act*.
2. All or a significant portion of the business
carried on by the employer at a specific
location was discontinued.

DATED at Toronto, Ontario, this 21st day of
July, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services





IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the Act,
respecting the **Pension Plan for Hourly-Paid
Employees of Dunlop (Canada) Inc. who are
Members of Local 974 (USWA) (the "Plan")**
Registration Number 0375048;

TO: Sharon Carew
Director
PricewaterhouseCoopers Inc.
Mississauga Executive Centre
One Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: **Dunlop (Canada) Inc.**
330 Byron Street South
Whitby, ON L1N 4P8
Employer

AND TO: Jack Weibe
Grant Thornton Limited
P.O. Box 55, Royal Bank Plaza
19th Floor, South Tower
Toronto, ON M5J 2P9
Trustee in Bankruptcy

AND TO: John O'Connor
**United Steelworkers of
America Local 974**
115 Albert Street
P.O. Box 946
Oshawa, ON L1H 7N1
Union Representative

ORDER

NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the Act
respecting a Notice of Proposal to make an
Order to wind up the Plan.

IT IS THEREFORE ORDERED that the
Plan be wound up in full effective between
October 22, 2004 and October 29, 2004 for the
following reason:

The employer is bankrupt within the
meaning of the *Bankruptcy and Insolvency
Act*.

DATED at Toronto, Ontario, this 10th day of
August, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Pension Plan for the Employees of International Controls Limited (the "Plan") Registration Number 1010537;**

TO: Darlene Sundercock
Wind-Up Specialist
Great West London Life
255 Dufferin Avenue
London, ON N6K 4K1
Administrator

AND TO: Gail Taylor
Administrator
International Controls Limited
5375 Brendan Lane
Oldcastle, ON N0R 1L0
Employer

AND TO: Chester Cszypula
BDO Dunwoody
103-252 Pall Mall Street
London, ON N6A 5P6
Trustee in Bankruptcy

ORDER

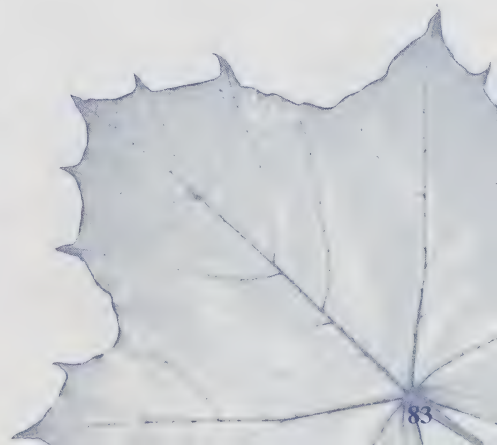
NO request requiring a hearing was delivered to the Financial Services Tribunal within the time prescribed by subsection 89(6) of the Act respecting a Notice of Proposal to make an Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan be wound up in full effective July 31, 2004 for the following reasons:

1. There is a cessation or suspension of employer contributions to the pension fund.
2. The employer fails to make contributions to the pension fund as required by this Act.
3. The Employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act*.

DATED at Toronto, Ontario, this 16th day of September, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



Consents to Payments out of Wound Up Pension Plans

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the Act consenting to a payment out of the **Pension Plan for Employees of Kingsley & Keith (Canada) Inc.**, Registration Number 559443;

TO: **2419742 Canada Inc. (formerly Kingsley & Keith (Canada) Inc.**
C/O PMC Inc. and Subsidiaries
12243 Brantford Street
Sun Valley, CA 91352

Attention: Ms. Tina Toy
Attorney
Applicant and Employer

CONSENT

ON or about January 11, 2005, the Superintendent of Financial Services caused to be served on 2419742 Canada Inc. (formerly Kingsley & Keith (Canada) Inc. a Notice of Proposal dated January 11, 2005 to consent, pursuant to subsection 78(1) of the Act, to payment out of the Pension Plan for Employees of Kingsley & Keith (Canada) Inc., Registration No. 559443, to 2419742 Canada Inc. in the amount of \$597,551 as at February 1, 2000 plus investment earnings to the date of the payment less any allowance for related expenses.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the Act.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Pension Plan for Employees of Kingsley & Keith (Canada) Inc., Registration Number 559443, to 2419742 Canada Inc. in the amount of \$597,551 as at February 1, 2000 plus investment earnings to the date of the payment less any allowance for related expenses.

THIS CONSENT IS EFFECTIVE ONLY AFTER the Applicant satisfies me that any payments to which members, former members and any other persons who are entitled to have been made or otherwise provided for.

DATED at Toronto, Ontario, this 18th day of March, 2005.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

c.c. Donna Wolfe, Cowan Wright Beauchamp Limited

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the Act consenting to a payment out of the **Retirement Plan for The Employees of The Canadian Gas Association, Registration Number 0233155;**

TO: **Canadian Gas Association**
350 Sparks Street, Suite 809
Ottawa, ON K1R 7S8

Attention: Michael Cleland
President and CEO
Applicant and Employer

CONSENT

ON or about February 11, 2005, the Superintendent of Financial Services caused to be served on Canadian Gas Association a Notice of Proposal dated February 11, 2005 to consent, pursuant to subsection 78(1) of the Act, to the payment out of the Retirement Plan for The Employees of The Canadian Gas Association, Registration Number 0233155, to Canadian Gas Association in the amount of \$427,850 as at February 28, 2003, plus adjustments for investment returns and expenses thereto.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the Act.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Retirement Plan for The

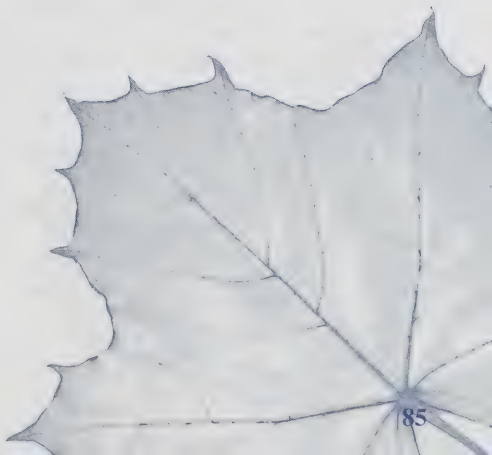
Employees of The Canadian Gas Association, Registration Number 0233155, to **Canadian Gas Association** in the amount of \$427,850 as at February 28, 2003, plus adjustments for investments returns and expenses thereto.

THIS CONSENT IS EFFECTIVE ONLY AFTER the Applicant satisfies me that all benefits, benefit enhancements and any other payments to which the members, former members, and any other persons entitled to such payments have been paid, purchased, or otherwise provided for.

DATED at Toronto, Ontario, this 29th day of April, 2005.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

c.c. Mr. Attila Bimbo
Mr. Edward Patkay
Mr. Marc Vigneault, Standard Life
Assurance Company





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the Act **consenting to a payment out of the Pension Plan for the Employees of Compo Machinery Corporation of Canada Limited and Affiliated Companies, Registration Number 0574814;**

TO: Compo Shoe Machinery Corporation of Canada Ltd.
3 Prospect Street
Morristown, NJ 07960 USA

Attention: Mr. Richard A. Varney
President and Secretary-Treasurer
Applicant and Employer

CONSENT

ON or about March 10, 2005 the Superintendent of Financial Services caused to be served on Compo Shoe Machinery Corporation of Canada Limited a Notice of Proposal dated March 10, 2005 to consent, pursuant to subsection 78(1) of the Act, to payment out of the Pension Plan for the Employees of Compo Shoe Machinery Corporation of Canada Limited and Affiliated Companies, Registration No.0574814, to Compo Shoe Machinery Corporation of Canada Limited in the amount of \$392,200 as at March 31, 2002, adjusted to the date of payment for investment earnings, expenses, and a payment of \$19,432 to the former members.

NO NOTICE requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the Act.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Pension Plan for the Employees of Compo Shoe Machinery Corporation of Canada Limited and Affiliated Companies, Registration Number 0574814, **to Compo Shoe Machinery Corporation of Canada Limited** in the amount of \$392,200 as at March 31, 2002, adjusted to the date of payment for investment earnings, expenses, and a payment of \$19,432 to the former members.

DATED at Toronto, Ontario, this 16th day of June, 2005.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

c.c. Serge Trépanier, FSA, FCIA, Mercer
Human Resource Consulting



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the Act consenting to a **payment out of the Pension Plan for Employees of Dymont Limited, Registration Number 0242735;**

TO: **Dymont Limited**
1235 Bay Street, Suite 400
Toronto, ON M5R 3K4

Attention: Mr. E. A. Campbell
Controller
Applicant and Employer

CONSENT

ON or about June 21, 2005, the Superintendent of Financial Services caused to be served on Dymont Limited a Notice of Proposal dated June 21, 2005 to consent, pursuant to subsection 78(1) of the Act, to the payment out of the Pension Plan for Employees of Dymont Limited, Registration Number 0242735, to **Dymont Limited** in the amount of 50% of the wind up surplus of \$1,660,847 as at December 31, 2002 plus 50% of investment earnings thereon to the date of payment, less 50% of expenses relating to the wind up of the Plan.

In a letter dated June 30, 2005, the Applicant waived the right to require a hearing as prescribed by subsection 89(6) of the Act.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Pension Plan for Employees of Dymont Limited, Registration Number 0242735, to **Dymont Limited** in the

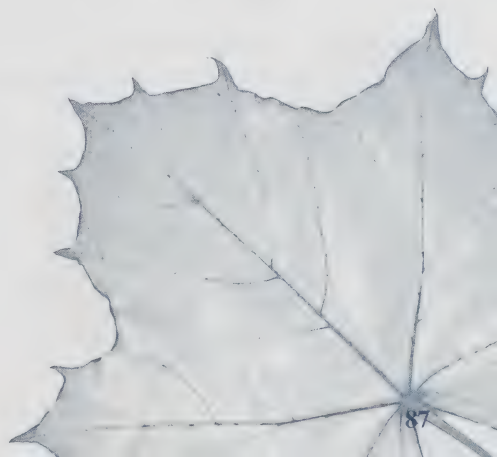
amount of 50% of the wind up surplus of \$1,660,847 as at December 31, 2002 plus 50% of investment earnings thereon to the date of payment, less 50% of expenses relating to the wind up of the Plan.

THIS CONSENT IS EFFECTIVE ONLY AFTER the Applicant satisfies me that all benefits and benefit enhancements pursuant to the Surplus Distribution Agreement set out in paragraph 5 of the Notice of Proposal dated June 21, 2005 and any other payments to which the members, former members, and any other persons entitled to such payments have been paid, purchased, or otherwise provided for.

DATED at Toronto, Ontario, this 7th day of July, 2005

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

c.c. Kerry Worgan, Mercer Human Resource Consulting



Declarations that the Pension Benefits Guarantee Fund Applies to Pension Plans – Subsection 83 (1) of the *Pension Benefits Act*

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the Financial Services Commission of Ontario Act, 1997, R.S.O. 1997, c. 28; (the “Act”);

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the *Act* relating to the **Retirement Plan for Employees of Outboard Marine Corporation of Canada Ltd. Registration Number 232975;**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention : Mr. David R. Kearney, Senior Consultant
Appointed Administrator of the Plan

AND TO: **Outboard Marine Corporation of Canada Ltd.**
100 Sea-Horse Drive
Waukegan, IL 60085

Attention: Ms. Darlene Lomax, Manager
Benefits Administration
Employer

AND TO: **Ernst & Young**
35 Metcalfe Street, Suite 1600
Ottawa, ON K1P 6L5

Attention; Mr. Greg Adams
Disbursement Receiver

DECLARATION

WHEREAS:

1. The Retirement Plan for Employees of Outboard Marine Corporation of Canada Ltd., (the “Plan”), is registered under the Act as Registration Number 232975; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the “Guarantee Fund”) by the Act or the regulations made thereunder; and
3. The Superintendent of Financial Services appointed Morneau Sobeco administrator of the Plan on July 11, 2002; and
4. On December 17, 2003, the Superintendent of Financial Services issued an Order that the Plan was to be wound up effective August 1, 2000 through April 9, 2001; and
5. The administrator filed a wind up report for the Plan effective April 9, 2001, disclosing a surplus of \$562,500 at the wind up date, and a projected deficiency of \$505,300 as at May 1, 2004; and
6. On October 29, 2004 the said wind up report was approved by the Superintendent of Financial Services; and
7. On December 1, 2004 the administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan, based on the said wind up report; and
8. On January 1, 2005 the administrator filed an application for an interim Allocation from the Guarantee Fund in the amount of \$1,927,600 determined as of December 1, 2004, such application being made in anticipation of the Declaration being issued; and
9. On January 6, 2005, a notice of proposal to make a Declaration that the Guarantee

Fund applies to the Plan was issued and served by the Deputy Superintendent, Pensions; and

10. As of February 24, 2005, no request for a hearing before the Tribunal in respect of the notice of proposal to make a Declaration had been received;

Director, Pension Plans Branch

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the *Act* that the Guarantee Fund applies to the Plan for the following reasons:

REASONS:

1. The potential claim against the Guarantee Fund has been revised from \$505,300 determined as of May 1, 2004 to \$1,927,600 determined as of December 1, 2004.
2. The employer, Outboard Marine Corporation of Canada Ltd., was ordered into receivership on November 20, 2001.
3. The administrator has been advised that there is unlikely to be any distribution of funds from the Estate of Outboard Marine Corporation of Canada Ltd. to the Plan.
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.
5. If funds become available for the Plan from the Estate of Outboard Marine Corporation of Canada Ltd., the administrator will be required to make an appropriate refund of any allocation amounts received by the Plan from the Guarantee Fund.

DATED at North York, Ontario this 10th day of March, 2005.

Tom Golfetto



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the Financial Services Commission of Ontario Act, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Pension Plan for Employees of Outboard Marine Corporation of Canada Ltd. Registration Number 232967;**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention : Mr. David R. Kearney, Senior Consultant
Appointed Administrator of the Plan

AND TO: **Outboard Marine Corporation of Canada Ltd.**
100 Sea-Horse Drive
Waukegan, IL 60085

Attention: Ms. Darlene Lomax, Manager Benefits Administration
Employer

AND TO: **Ernst & Young**
35 Metcalfe Street, Suite 1600
Ottawa, ON K1P 6L5

Attention: Mr. Greg Adams
Disbursement Receiver

DECLARATION

WHEREAS:

1. The Pension Plan for Employees of Outboard Marine Corporation of Canada Ltd., (the "Plan"), is registered under the Act as Registration Number 232967; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Superintendent of Financial Services appointed Morneau Sobeco administrator of the Plan on July 11, 2002; and
4. On December 11, 2003, the Superintendent of Financial Services issued an Order that the Plan was to be wound up effective August 1, 2000 through December 20, 2000; and
5. The administrator filed a wind up report for the Plan effective December 20, 2000, disclosing a surplus of \$398,600 at the wind up date, and a projected deficiency of \$216,300 as at May 1, 2004; and
6. On October 29, 2004 the said wind up report was approved by the Superintendent of Financial Services; and
7. On December 1, 2004 the administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan, based on the said wind up report; and
8. On January 6, 2005, a notice of proposal to make a Declaration that the Guarantee Fund applies to the Plan was issued and served by the Deputy Superintendent, Pensions; and
9. On February 9, 2005 the administrator filed an application for an interim Allocation from the Guarantee Fund in the amount of \$654,2000 determined as of

December 1, 2004, such application being made in anticipation of the Declaration being issued; and

10. As of February 24, 2005, no request for a hearing before the Tribunal in respect of the notice of proposal to make a Declaration had been received;

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the *Act* that the Guarantee Fund applies to the Plan for the following reasons:

REASONS:

1. The potential claim against the Guarantee Fund has been revised from \$216,300 determined as of May 1, 2004 to \$654,000 determined as of December 1, 2004.
2. The employer, Outboard Marine Corporation of Canada Ltd., was ordered into receivership on November 20, 2001.
3. The administrator does not anticipate there will be any distribution of funds from the Estate of Outboard Marine Corporation of Canada Ltd. to the Plan.
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.
5. If funds become available for the Plan from the Estate of Outboard Marine Corporation of Canada Ltd., the administrator will be required to make an appropriate refund of any allocation amounts received by the Plan from the Guarantee Fund.

DATED at North York, Ontario this 10th day of March, 2005.

Tom Golfetto
Director, Pension Plans Branch





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the Financial Services Commission of Ontario Act, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Pension Plan for Hourly Employees of Ford-Smith Machine Company Limited**, Registration Number 541565 (the "Plan");

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention: David R. Kearney, Senior
Consultant
Administrator

AND TO: **Ford-Smith Machine Company Limited**
901 Arvin Avenue
Stoney Creek, ON L8E 5N9

Attention: Brian Thwaites
Employer

AND TO: **Grant Thornton Limited**
19 Floor, South Tower
Royal Bank Plaza
200 Bay Street, Box 55
Toronto, ON M5J 2P9

Attention: Mr. Jake Weibe
Interim Receiver

AND TO: **United Steelworkers of America, Local 4843**
1031 Barton Street East
Hamilton, ON L8L 3E3

Attention: Roy Leslie
Union Representative for the members of the Plan

DECLARATION

WHEREAS:

1. The Pension Plan for Hourly Employees of Ford-Smith Machine Company Limited ("Ford-Smith"), is registered under the Act as Registration Number 541565 (the "Plan"); and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. On July 2, 2003 the Ontario Supreme Court of Justice appointed Grant Thornton Limited interim receiver for the employer; and
4. On July 2, 2003 all of the employees of the employer were terminated; and
5. On September 8, 2003 the Interim Receiver advised FSCO that the Ford-Smith business had not been sold and that all of the assets of Ford-Smith had been liquidated through public auction; and
6. The Superintendent of Financial Services appointed Morneau Sobeco administrator of the Plan on February 2, 2004; and
7. The appointed administrator of the Plan does not anticipate any recovery from the Plan from the said liquidation; and
8. On August 19, 2004 the administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan; and

9. An actuarial opinion submitted with the application revealed that as of April 1, 2004 there were insufficient assets in the Plan to cover the liabilities of the Plan determined on a wind up basis; and
10. On December 17, 2004 the administrator filed an application to the Superintendent to make an order that the Plan be wound up effective July 2, 2003 for members whose employment terminated during the period December 3, 2001 to July 2, 2003; and
11. On February 11, 2005 the Superintendent of Financial Services issued a Notice of Proposal to make a Declaration that the Guarantee Fund applies to the Plan; and
12. On March 18, 2005 the Superintendent of Financial Services issued an Order that the Plan be wound up effective December 3, 2001 through July 2, 2003; and
13. As of April 6, 2005 no request for a hearing before the Financial Services Tribunal has been made in respect of the Notice of Proposal to make the Declaration;

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

REASONS FOR THE PROPOSED DECLARATION:

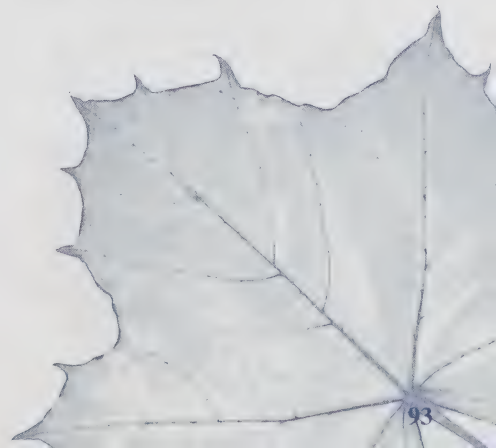
1. The Employer, Ford-Smith Machine Company Limited, no longer exists; has had its assets liquidated by the Interim Receiver to pay its secured creditors; and the Plan is to be wound up.
2. The administrator has estimated that there are insufficient assets in the Plan to cover the wind up liabilities of the Plan as at April 1, 2004.
3. The administrator does not expect there

will any recovery from the estate or the liquidated assets of the Employer to meet any or all of the deficit in the Plan.

4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.

DATED at North York, Ontario this 12th day of April, 2005.

Tom Golfetto
Director, Pension Plans Branch



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the Financial Services Commission of Ontario Act, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the *Act* relating to the **Non-Contributory Retirement Plan for Salaried Employees of Ford-Smith Machine Company Limited, Registration Number 288845 (the "Plan");**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention: David R. Kearney,
Senior Consultant
Administrator

AND TO: **Ford-Smith Machine Company Limited.**
901 Arvin Avenue
Stoney Creek, ON L8E 5N9

Attention: Brian Thwaites
Employer

AND TO: **Grant Thornton Limited**
19 th Floor, South Tower
Royal Bank Plaza
200 Bay Street, Box 55
Toronto, ON M5J 2P9

Attention: Mr. Jake Weibe
Interim Receiver

DECLARATION

WHEREAS:

1. The Non-Contributory Retirement Plan for Salaried Employees of Ford-Smith Machine Company Limited is registered under the Act as Registration Number 288845 (the "Plan"); and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. On July 2, 2003 by Order of the Ontario Supreme Court of Justice Grant Thornton Limited was appointed interim receiver for the employer; and
4. On July 2, 2003 all of the employees of the employer were terminated under the Order; and
5. On September 8, 2003 the Interim Receiver advised FSCO that the Ford-Smith business had not been sold and that all of the assets of the Ford-Smith had been liquidated through public auction; and
6. The Superintendent of Financial Services appointed Morneau Sobeco administrator of the Plan on February 2, 2004; and
7. The appointed administrator of the Plan does not anticipate any recovery for the Plan from the above liquidation of the employer's assets; and
8. The Plan is not a continuing Plan and will need to be wound up; and
9. On August 19, 2004 the administrator filed an application for a Declaration that the Guarantee Fund applies to the Plan; and
10. An actuarial opinion submitted with the application revealed that as of April 1, 2004 there were insufficient assets in the Plan to cover the liabilities of the Plan on a

wind up basis, the deficit being estimated at \$263,700; and

11. On February 11, 2005 the Superintendent of Financial Services issued a Notice of Proposal to make a Declaration that the Guarantee Fund applies to the Plan; and
12. On March 18, 2005 the Superintendent of Financial Services issued an Order that the Plan be wound up effective May 16, 2003 through July 18, 2003; and
13. As of April 6, 2005 no request for a hearing before the Financial Services Tribunal has been made in respect of the Notice of Proposal to make the Declaration;

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

**REASONS FOR THE PROPOSED
DECLARATION:**

1. The Employer, Ford-Smith Machine Company Limited, no longer exists and has had its assets liquidated by the Interim Receiver to pay its secured creditors.
2. The administrator has estimated that there are insufficient assets in the Plan to cover the wind up liabilities of the Plan as at April 1, 2004, the deficit being \$263,700.
3. The administrator does not expect there to be any recovery from the estate or the liquidated assets of the Employer to meet any or all of the deficit in the Plan.
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied

DATED at North York, Ontario this 12th day of April, 2005.

Tom Golfetto
Director, Pension Plans Branch



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P. 8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to make a Declaration under Section 83 of
the Act respecting the **Retirement Plan for
Salaried Employees of National Refractories
& Minerals Inc., Registration Number
0931964 (the Pension Plan)**;

TO: Cowan Wright Beauchamp
Limited
100 Regina Street S., Suite 270
Box 96
Waterloo, ON N2J 3Z6

Attention: Donna Wolfe
Senior Actuarial Technician
**Administrator of the Pension
Plan**

AND TO: National Refractories &
Minerals Inc.
c/o Development Specialists, Inc.
333 Grand Ave., Suite 2100
Los Angeles, California,
90071-1524

Attention: Bradley Sharp
Court Appointed Responsible
Individual
Employer

AND TO: Schwartz Levitsky Feldman Inc.
1167 Caledonia Road
Toronto, ON M6A 2X1

Attention: James Graham
**Interim Receiver for National
Refractories & Minerals Inc.**

DECLARATION

WHEREAS:

1. The Pension Plan is registered under the Act; and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. The Pension Plan was wound up in full effective December 20, 2002; and
4. The Superintendent of Financial Services appointed Cowan Wright Beauchamp Limited as the administrator (the "Administrator") of the Pension Plan on March 30, 2004; and
5. On March 23, 2005, the Deputy Superintendent, Pensions issued a Notice of Proposal dated March 21, 2005 to make a Declaration that the Guarantee Fund applies to the Pension Plan; and
6. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the Act, has been received.

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The application is made for a Guarantee Fund declaration is based on the preliminary actuarial valuation of the Pension Plan as at December 20, 2002. The preliminary valuation was prepared by the actuary and indicated a potential PBGF claim as at May 18, 2004 of approximately \$98,600.



2. On March 13, 2003, the Ontario Superior Court of Justice in Bankruptcy appointed Schwartz Levitsky Feldman Inc. as interim receiver of the Company. The Company's parent having previously filed for Chapter 11 protection under the United States Bankruptcy Code and is now in bankruptcy.
3. The Administrator advises that the Interim Receiver has advised them that there are no funds available to the pension fund or any unsecured creditors.
4. The Administrator has advised that they are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

DATED at North York, Ontario this 9th day of May, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make a Declaration under Section 83 of the Act respecting the **Pension Plan for Bargaining Unit Employees of Slater Steel Inc. Hamilton Speciality Bar Division, Registration Number 0308320 (the "Pension Plan")**;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: David Kearney
Principal
Administrator of the Pension Plan

AND TO: **Slater Steel Inc. Hamilton Specialty Bar Division**
PO Box 2943 Hamilton,
Stn. LCD 1
319 Sherman Avenue North
Hamilton, ON L8N 3P9

Attention: Peter Melnick
Controller
Employer

AND TO: **PricewaterhouseCoopers Inc.**
145 King Street West
Toronto, ON M5H 1V8

Attention: Jeff Rosenberg
Receiver for Slater Steel Inc.

AND TO: **United Steelworkers of America, District 6**
1031 Barton Street
Hamilton, ON L8L 3E3

Attention: Bryan Adamczyk
Staff Representative Local 4752
Union

DECLARATION

WHEREAS:

1. The Pension Plan is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the Financial Services Commission of Ontario Act, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. Slater Steel Inc. issued a notice pursuant to section 68(2) of the Act to wind up the Pension Plan effective May 28, 2004. The notice was provided to members and former members of the Pension Plan and to any other persons entitled to payment from the Pension Plan. A copy of the notice was also provided to the Superintendent as required by the Act; and
4. On February 28, 2005, the Deputy Superintendent, Pensions issued a Notice of Proposal dated February 28, 2005 to make a Declaration that the Guarantee Fund applies to the Pension Plan; and
5. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the Act, has been received.

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The most-recent actuarial valuation report on the Pension Plan was prepared as of December 31, 1999 by Eckler Partners Ltd. This valuation determined that the Pension Plan had solvency assets of \$70,286,000. solvency liabilities of \$77,758,000. and a solvency deficiency (excluding the solvency asset adjustment) of \$7,472,000. as at December 31, 1999. The valuation also stipulated that the wind up liabilities exceeded wind up assets by \$9,790,000. and the Pension Plan had a transfer ratio of 90.4%

Furthermore, the Administrator has filed an Actuarial Opinion by the Pension Plan actuary in which the actuary stipulated that the Pension Plan's assets are not sufficient to cover the liabilities of the Pension Plan on a wind up basis.

2. PricewaterhouseCoopers Inc. was appointed Receiver for Slater Steel Inc. on August 30, 2004 by the Ontario Superior Court of Justice.
3. Morneau Sobeco (Regulatory Services) Inc. was appointed as administrator of the Pension Plan on September 4, 2004 by the Superintendent.
4. The Administrator has advised staff that they will be filing a Proof of Claim with the estate of Slater Steel Inc. in respect of the deficiency in the Pension Plan. However, they were advised by the Receiver that there are no funds available for distribution to the Pension Plan.
5. The Administrator has also advised staff that there are reasonable and probable grounds for considering that the funding

requirements of the Act and Regulation cannot be satisfied.

DATED at Toronto, Ontario this 11th day of May, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P. 8, as amended (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make a Declaration under Section 83 of the
Act respecting the **Slater Steel Inc. Pension
Plan for Corporate Employees and Salaried
Employees of Hamilton Speciality Bar
Division, Registration Number 0308338 (the
"Pension Plan")**;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention: David Kearney
Principal
**Administrator of the
Pension Plan**

AND TO: **Slater Steel Inc. Hamilton
Specialty Bar Division**
PO Box 2943 Hamilton,
Stn. LCD 1
319 Sherman Avenue North
Hamilton, ON L8N 3P9

Attention: Peter Melnick
Controller
Employer

AND TO: **PricewaterhouseCoopers Inc.**
145 King Street West
Toronto, ON M5H 1V8

Attention: Jeff Rosenberg
Receiver for Slater Steel Inc.

DECLARATION

WHEREAS:

1. The Pension Plan is registered under the *Pension Benefits Act*, R.S.O. 1990, c. P. 8 as amended by the *Financial Services Commission of Ontario Act*, 1997, c. 28, (the "Act"); and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. Slater Steel Inc. issued a notice pursuant to section 68(2) of the Act to wind up the Pension Plan effective May 28, 2004. The notice was provided to members and former members of the Pension Plan and to any other persons entitled to payment from the Pension Plan. A copy of the notice was also provided to the Superintendent as required by the Act; and
4. On February 28, 2005, the Deputy Superintendent, Pensions issued a Notice of Proposal dated February 28, 2005 to make a Declaration that the Guarantee Fund applies to the Pension Plan; and
5. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the Act, has been received.

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Pension Plan for the following reasons:

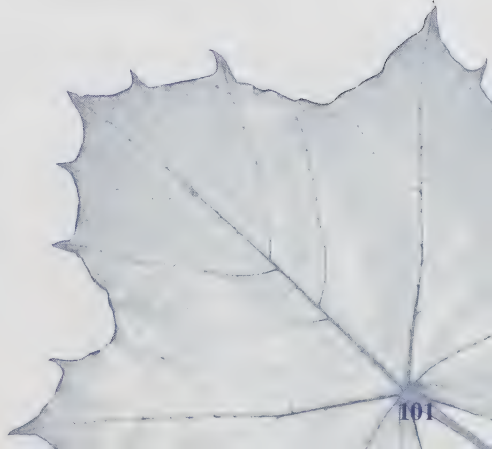
1. The most-recent actuarial valuation report on the Pension Plan was prepared as of December 31, 2001 by Eckler Partners

Ltd. This valuation determined that the Pension Plan had solvency assets of \$20,172,000., solvency liabilities of \$22,822,000. and a solvency deficiency (excluding the solvency asset adjustment) of \$2,650,000. as at December 31, 2001 and a transfer ratio of 88.4% . Furthermore, the Administrator has filed an Actuarial Opinion by the Pension Plan actuary in which the actuary stipulated that the Pension Plan's assets are not sufficient to cover the liabilities of the Pension Plan on a wind up basis.

2. PricewaterhouseCoopers Inc. was appointed Receiver for Slater Steel Inc. on August 30, 2004 by the Ontario Superior Court of Justice.
3. Morneau Sobeco (Regulatory Services) Inc. was appointed as administrator of the Pension Plan on September 4, 2004 by the Superintendent.
4. The Administrator has advised staff that they will be filing a Proof of Claim with the estate of Slater Steel Inc. in respect of the deficiency in the Pension Plan. However, they were advised by the Receiver that there are no funds available for distribution to the Pension Plan.
5. The Administrator has also advised staff that there are reasonable and probable grounds for considering that the funding requirements of the Act and Regulation cannot be satisfied.

DATED at Toronto, Ontario this 11th day of May, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 83 of the
Act, respecting the **Retirement Plan for
Employees of Imperial Home Decor Group
Canada ULC, Registration Number 596254;**

TO: Debbie Gallagher
Consultant
Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3
Administrator

AND TO: Tracy Kooser
Vice-President Human
Resources
**Imperial Home Decor Group
Canada ULC**
23645 Mercantile Road
Cleveland, OH 44122
U. S. A.
Employer

AND TO: Yves Vincent, CA
Administrator
Richter & Associates Inc.
2 Place Alexis Nihon
Suite 2200
Montreal, (Quebec) H3Z 3C2
Trustee in Bankruptcy

AND TO: Robert Smart
**Communications, Energy and
Paperworkers Union, Local 304**
5915 Airport Road, Suite 510
Mississauga, ON L4V 1T1
Union Representative

DECLARATION

I DECLARE pursuant to sections 83 and 89
of the Act that the Pension Benefits Guarantee
Fund (Guarantee Fund) applies to the Plan for
the following reasons:

1. The Plan is registered under the Act, and
2. The Plan provides defined benefits that
are not exempt from the application of
the Guarantee Fund by the Act or the
regulations made thereunder, and
3. The plan was wound up effective June 30,
2001; and
4. There are reasonable and probable
grounds that the funding requirements
of the Act and regulations cannot be
satisfied. Based on the latest actuarial
certification, the administrator has
estimated the deficit in the plan at the
wind up date to be \$2,117,532 with a
projected value of \$4,051,350 at June 30,
2003. If funds become available from the
estate of the employer, the administrator
will be required to make an appropriate
refund of any allocation amount received
by the Plan from the Guarantee Fund.

DATED at Toronto, Ontario, this 5th day of
July, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the
Superintendent of Financial Services to make
an Declaration under section 83 of the Act,
respecting the **Proboard Limited Employees'
Pension Plan Registration Number 593814**
(the "Plan");

TO: David R. Kearney
Morneau Sobeco
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3
Administrator

AND TO: Steve Geddes
Director of Finance
Proboard Limited
P.O. Box 1600
Atikokan, ON P0T 1C0
Employer

AND TO: Brian Deazeley CA CIRP
ISCA Financial Services
2172 Dunvegan Avenue
Oakville, ON L6J 6P1
Trustee in Bankruptcy

AND TO: Rene Lindquist
National Representative
**Communications, Energy and
Paperworkers of Canada**
(Local 49-0)
516 South High Street
Thunder Bay, ON P7B 3M3
Union Representative

DECLARATION

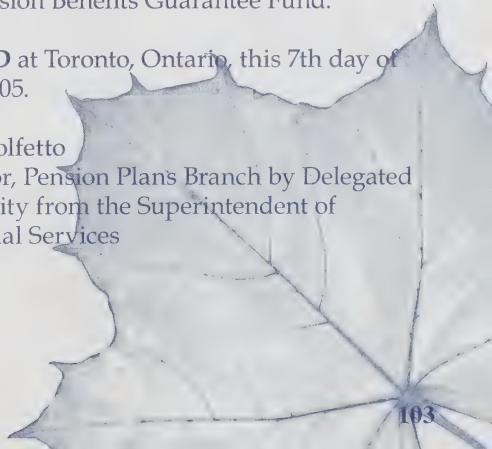
NO request requiring a hearing was delivered to the Financial Services Tribunal within the time prescribed by subsection 89(6) of the Act requesting a Notice of Proposal to make a Declaration that the Pension Benefits Guarantee Fund applies to the Plan.

I THEREFORE DECLARE pursuant to sections 83 and 89 of the Act that the Pension Benefits Guarantee Fund applies to the Plan for the following reasons:

1. The Plan is registered under the Act, and
2. The Plan provides defined benefits that are not exempt from the application of the Guarantee Fund by the Act or the regulations made thereunder, and
3. The plan was wound up effective May 30, 2003 to October 6, 2003, and
4. There are reasonable and probable grounds that the funding requirements of the Act and regulations cannot be satisfied. The administrator has estimated the deficit in the Plan at the wind up date to be \$1,265,000. If funds become available from the estate of the employer, the administrator will be required to make an appropriate refund of any allocation amount received by the Plan from the Pension Benefits Guarantee Fund.

DATED at Toronto, Ontario, this 7th day of July, 2005.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Oxford Automotive Canada Ltd. Pension Plan for Hourly Employees Located at the Wallaceburg Plant, Registration Number 364356;**

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Ms. Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Ms. Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

AND TO: Mr. Bill Pollock
President
**United Auto Workers Union,
Local 251**
88 Elm Drive South
Wallaceburg, ON N8A 5E7
**Union representative for the
members of the Plan**

DECLARATION

WHEREAS:

1. The Oxford Automotive Canada Ltd. Pension Plan for Hourly Employees Located at the Wallaceburg Plant, (the "Plan"), is registered under the Act as Registration Number 364356; and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the "Guarantee Fund") by the Act or the regulations made thereunder; and
3. On September 2, 2004 the employer assigned itself into voluntary bankruptcy; and
4. The Superintendent of Financial Services appointed Pricewaterhouse Coopers Inc. administrator of the Plan on October 12, 2004; and
5. On December 22, 2004 Pricewaterhouse Coopers Inc applied to the Superintendent of Financial Services for an Order that the Plan be wound up effective December 5, 2003 through March 1, 2004; and
6. On December 23, 2004 the administrator also filed an application for a Declaration that the Guarantee Fund applies to the Plan; and
7. The application for a Declaration includes an actuarial statement which indicates a deficiency in the Plan as at March 1, 2004

that would lead to a claim against the Guarantee Fund at that date of \$7,317,480; and

8. The administrator has also filed an application for an interim allocation of the Guarantee Fund of \$9,048,154 determined as of September 30, 2004 based upon the actuarial evaluation referred to in 6. above; and
9. The administrator has been advised by the trustee in bankruptcy that there is unlikely to be any funds available for the Plan from the estate of the employer; and
10. On May 11, 2005 a notice of proposal to make a Declaration that the Guarantee Fund applies to the Plan was issued and served by the Deputy Superintendent, Pensions; and
11. As of August 5, 2005, no request for a hearing before the Tribunal in respect of the notice of proposal to make a Declaration had been received;

5. If funds become available for the Plan from the Estate of Oxford Automotive Canada Ltd., the administrator will be required to make an appropriate refund of any allocation amounts received by the Plan from the Guarantee Fund that are not needed for the Plan.

DATED at North York, Ontario this 10th day of August, 2005.

Tom Golfetto
Director, Pension Plans Branch

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons

1. There is a potential claim of \$9,048,154 against the Guarantee Fund based on the administrator's evaluation of the Plan as at September 30, 2004.
2. The employer, Oxford Automotive Canada Ltd., is bankrupt.
3. The administrator has been advised by the trustee in bankruptcy that there are unlikely to be any funds available for the Plan from the estate of the employer;
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the “Act”);

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Oxford Automotive Canada Ltd. Pension Plan for Salaried Employees Located in Chatham and Wallaceburg, Ontario. Registration Number 1063023;**

TO: Tony Karkheck
Senior Vice-president
PricewaterhouseCoopers Inc.
1 Robert Speck parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Ms. Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Ms. Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

DECLARATION

WHEREAS:

1. The Oxford Automotive Canada Ltd. Pension Plan for Salaried Employees

Located in Chatham and Wallaceburg, Ontario. Registration Number 1063023 (the “Plan”), is registered under the Act as Registration Number 1063023; and

2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the “Guarantee Fund”) by the Act or the regulations made thereunder; and
3. On September 2, 2004 the employer assigned itself into voluntary bankruptcy; and
4. The Superintendent of Financial Services appointed PricewaterhouseCoopers Inc. administrator of the Plan on October 12, 2004; and
5. On December 22, 2004 PricewaterhouseCoopers Inc applied to the Superintendent of Financial Services for an Order that the Plan be wound up effective February 28, 2003 through March 1, 2004; and
6. On December 23, 2004 the administrator also filed an application for a Declaration that the Guarantee Fund applies to the Plan; and
7. The application for a Declaration includes an actuarial statement which indicates a deficiency in the Plan as at March 1, 2004 that would lead to a claim against the Guarantee Fund at that date of \$2,341,993; and
8. The administrator has also filed an application for an interim allocation of the Guarantee Fund in the amount of \$3,030,440 determined as of September 30, 2004 based upon the actuarial evaluation referred to in 6. above; and
9. The administrator has been advised by the trustee in bankruptcy that there are unlikely to be any funds available for the Plan from the estate of the employer; and
10. On May 11, 2005 a notice of proposal to

make a Declaration that the Guarantee Fund applies to the Plan was issued and served by the Deputy Superintendent, Pensions; and

11. As of August 5, 2005, no request for a hearing before the Tribunal in respect of the notice of proposal to make a Declaration had been received;

NOW THEREFORE TAKE NOTICE I declare pursuant to sections 83 and 89 of the Act that the Guarantee Fund applies to the Plan for the following reasons:

1. There is a potential claim of \$3,030,440 against the Guarantee Fund based on the administrator's preliminary evaluation of the Plan as at September 30, 2004.
2. The employer, Oxford Automotive Canada Ltd., is bankrupt.
3. The administrator has been advised by the trustee in bankruptcy that there are unlikely to be any funds available for the Plan from the estate of the employer;
4. There are reasonable and probable grounds for concluding that the funding requirements of the Act and regulation cannot be satisfied.
5. If funds become available for the Plan from the Estate of Oxford Automotive Canada Ltd., the administrator will be required to make an appropriate refund of any allocation amounts received from the Guarantee Fund that are not needed for the Plan.

DATED at North York, Ontario this 10th day of August, 2005.

Tom Golfetto
Director, Pension Plans Branch





IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 83 and 89 of the Act, respecting the **Pension Plan for Hourly-Rated Employees of Dunlop (Canada) Inc. who are Members of Local 974 (USWA) (the "Plan")** Registration Number 0375048;

TO: Sharon Carew
Director
PricewaterhouseCoopers Inc.
Mississauga Executive Centre
One Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: **Dunlop (Canada) Inc.**
330 Byron Street South
Whitby, ON L1N 4P8
Employer

AND TO: Jake Weibe
Grant Thornton Limited
P.O. Box 55, Royal Bank Plaza
19th Floor, South Tower
Toronto, ON M5J 2P9
Trustee in Bankruptcy

AND TO: **John O'Connor**
330 Byron Street South
Oshawa, ON L1H 7N1
Union Representative

DECLARATION

NO request requiring a hearing was delivered to the Financial Services Tribunal within the time prescribed by subsection 89(6) of

the Act requesting a Notice of Proposal to make a Declaration that the Pension Benefits Guarantee Fund applies to the Plan.

I DECLARE pursuant to sections 83 and 89 of the Act that the Pension Benefits Guarantee Fund (Guarantee Fund) applies to the Plan for the following reasons:

1. The Plan is registered under the Act, and;
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund by the Act or the regulations made thereunder, and;
3. The plan was wound up effective **between October 22, 2004 and October 29, 2004**, and;
4. There are reasonable and probable grounds that the funding requirements of the Act and regulations cannot be satisfied.

Based on the latest actuarial certification, there is an estimated claim against the Guarantee Fund of \$383,100 as at February 28, 2005. If funds become available from the estate of the employer, the administrator will be required to make an appropriated refund of any allocation amount received by the Plan from the Pension Benefits Guarantee Fund.

DATED at Toronto, Ontario, this 7th day of September, 2005.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

Allocations of Money from the Pension Benefits Guarantee Fund

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under section 83 of the Act relating to the **Retirement Plan for Employees of Outboard Marine Corporation of Canada Ltd.**
Registration Number 232975;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention: Mr. David R. Kearney, Principal
Appointed Administrator of the Plan

AND TO: **Outboard Marine Corporation of Canada Ltd.**
100 Sea-Horse Drive
Waukegan, IL 60085

Attention: Ms. Darlene Lomax, Manager
Benefits Administration
Employer

AND TO: **Ernst & Young**
35 Metcalfe Street, Suite 1600
Ottawa, ON K1P 6L5

Attention: Mr. Greg Adams
Disbursement Receiver

ALLOCATION

WHEREAS on the 10th day of March, 2005 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$1,927,600 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario, this 19th day of April, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under section 83 of the Act relating to the **Pension Plan for Employees of Outboard Marine Corporation of Canada Ltd.**
Registration Number 232967;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention: Mr. David R. Kearney, Senior Consultant
Appointed Administrator of the Plan

AND TO: **Outboard Marine Corporation of Canada Ltd.**
100 Sea-Horse Drive
Waukegan, IL 60085

Attention: Ms. Darlene Lomax, Manager
Benefits Administration
Employer

AND TO: **Ernst & Young**
35 Metcalfe Street, Suite 1600
Ottawa, ON K1P 6L5

Attention: **Mr. Greg Adams**
Disbursement Receiver

ALLOCATION

WHEREAS on the 10th day of March, 2005 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$654,200 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario, this 19th day of April, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Declaration
under section 83 of the Act relating to the
**Employees' Retirement Plan of Hoskins
Alloys of Canada Limited, Registration
Number 557868 (the "Plan")**;

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3

Attention: Mr. Tony Karkheck,
Human Resource Services
Appointed Administrator

AND TO: **Hoskins Manufacturing Co.**
39500 High Pointe Boulevard,
Suite 300
Novi, MI 48375

Attention: Phillip Varvatos, Controller
Employer

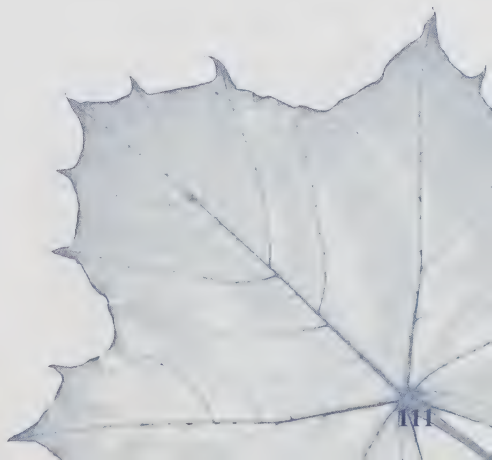
ALLOCATION

WHEREAS on the 12th day of October,
2004 a declaration was made, pursuant to
sections 83 and 89 of the Act, that the Pension
Benefits Guarantee Fund (the "Guarantee
Fund") applies to the Plan; and on the
29th day of December, 2004 pursuant to
the administrator's request, an allocation
in the amount of \$306,700 was made from
the Guarantee Fund to the Plan; and in
consideration of the administrator's request
for a further allocation from the Guarantee
Fund in the amount of \$13,000;

NOW THEREFORE I shall allocate from
the Guarantee Fund and pay to the Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the "Regulation"),
an amount not to exceed \$13,000 that is
expected to provide, together with the
previous allocation of \$306,700 and the
remaining assets of the Plan, for the benefits
determined in accordance with section 34
of the Regulation, and to pay the reasonable
administration costs to wind up the Plan. Any
money allocated from the Guarantee Fund
but not required to provide such benefits or
costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario, this 19th day
of April, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the Act, respecting the **Pension Plan for Employees of Ryancon, Registration Number 298430, (the "Plan")**;

TO: **PricewaterhouseCoopers Inc.**
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3

Attention: Mr. Tony Karkheck
Appointed Administrator

AND TO: **Ryancon**
144 Sharer Road
Vaughan, ON L4L 8P4

Attention: John D. Hains, Chief Financial
Officer
Employer

AND TO: **BDO Dunwoody Limited**
33 City Centre Drive, Suite 680
Mississauga, ON L5B 2N5

Attention: Mr. Darryl McConnell,
Senior Manager
**Trustee in Bankruptcy/
Receiver and Manager**

ALLOCATION

WHEREAS on the 23rd day of July, 2004 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$687,100 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario, this 19th day of April, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the *Act* relating to the **Pension Plan for Hourly Employees of Ford-Smith Machine Company Limited**, Registration Number 541565 (the "Plan");

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention: David R. Kearney, Senior
Consultant
Administrator

AND TO: **Ford-Smith Machine Company Limited.**
901 Arvin Avenue
Stoney Creek, ON L8E 5N9

Attention: Brian Thwaites
Employer

AND TO: **Grant Thornton Limited**
19th Floor, South Tower
Royal Bank Plaza
200 Bay Street, Box 55
Toronto, ON M5J 2P9

Attention: Mr. Jake Weibe
Interim Receiver

AND TO: **United Steelworkers of America, Local 4843**
1031 Barton Street East
Hamilton, ON L8L 3E3

Attention: Roy Leslie
Union Representative for the members of the Plan

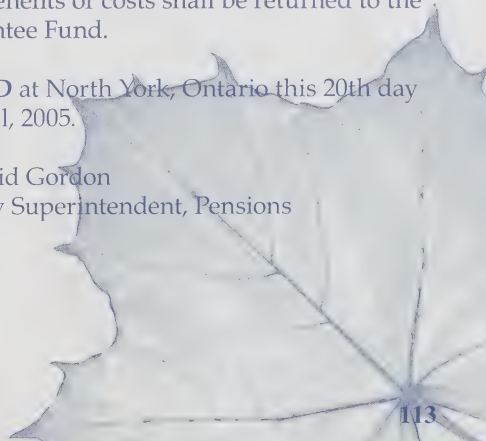
ALLOCATION

WHEREAS on the 12th April, 2005 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Pension Plan for Hourly Employees of Ford-Smith Machine Company Limited, Registration Number 541565 (the "Plan");

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$1,596,600 to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario this 20th day of April, 2005.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, R.S.O. 1997, c. 28; (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make a Declaration under section 83 of the Act relating to the **Non-Contributory Retirement Plan for Salaried Employees of Ford-Smith Machine Company Limited, Registration Number 288845 (the "Plan")**;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto, ON M3C 1W3

Attention: David R. Kearney, Senior
Consultant
Administrator

AND TO: **Ford-Smith Machine Company Limited**
901 Arvin Avenue
Stoney Creek, ON L8E 5N9

Attention: Brian Thwaites
Employer

AND TO: **Grant Thornton Limited**
19th Floor, South Tower
Royal Bank Plaza
200 Bay Street, Box 55
Toronto, ON M5J 2P9

Attention: Mr. Jake Weibe
Interim Receiver

ALLOCATION

WHEREAS on the 12th April, 2005 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Non-Contributory Retirement Plan for Salaried Employees of Ford-Smith Machine Company Limited, Registration Number 288845 (the "Plan");

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$347,300 to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario this 20th day of April, 2005.

K. David Gordon
Deputy Superintendent, Pensions

IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of the
Superintendent of Financial Services to make
an Order under section 83 and 89 of the Act,
respecting the **Commercial Aluminum (1993)
Limited Hourly Employees Pension Plan**
(the "Plan") Registration Number 1010289;

TO: Andre Choquet, FCIA, FSA
Actuary
Thompson Actuarial Limited
87 Waverleigh Blvd.
Toronto, OSN M4J 1R8
Mississauga, ON L4Z 3M3
Administrator

AND TO: Suzanne Lam-Fitzgibbon
**Commercial Aluminum
Limited**
240 Barton
300 Byron Street South
Whitby, ON L1N 4P8
Employer

AND TO: Brahm Rosen
Senior Vice President
**SF Partners Inc. (formerly
Solursh Feldman Goldberg Inc.)**
The Madison centre
4950 Yonge Street, Suite 400
Toronto, ON M2N 6K1
Trustee in Bankruptcy

AND TO: Wess Dowsett
Staff Representative
United Steelworkers of America
115 Albert Street, P.O. Box 946
Oshawa, ON L1H 7N1
Union Representative

ALLOCATION

WHEREAS on December 17, 2004, the
Director, Pension Plans Branch declared,
pursuant to sections 83 and 89 of the Act, that
the Pension Benefits Guarantee Fund (the
"Guarantee Fund") applies to the Pension
Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the "Regulation"), an
amount not to exceed \$195,166 which together
with the Ontario assets of the Pension Plan,
will provide for the benefits determined in
accordance with section 34 of the Regulation.
Any money allocated from the Guarantee
Fund but not required to provide such
benefits shall be returned to the Guarantee
Fund.

DATED at Toronto, Ontario, this 21st day of
June, 2005.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 83 and 89
of the Act, respecting the **Pension Plan for
Bargaining Unit Employees of Slater Steel
Inc. Hamilton Speciality Bar Division (the
"Plan")** Registration Number 0308320;

TO: David Kearney
Principal
**Morneau Sobeco
(Regulatory Services) Inc.**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3
Administrator

AND TO: Peter Melnick
Controller
**Slater Steel Inc. Hamilton
Special Bar Division**
PO Box 2943 Hamilton Stn. LCD 1
319 Sherman Avenue North
Hamilton, ON L8N 3P9
Employer

AND TO: Jeff Rosenberg
PricewaterhouseCoopers Inc.
145 King Street West
Toronto, ON M5H 1V8
Receiver

AND TO: Bryan Adamczyk
**United Steelworkers of
America, District 6**
1031 Barton Street
Hamilton, ON L8L 3E3
Union Representative

ALLOCATION

WHEREAS on May 11, 2005, the Director,
Pension Plans Branch declared, pursuant to
sections 83 and 89 of the Act, that the Pension
Benefits Guarantee Fund (the "Guarantee
Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the "Regulation"),
an amount not to exceed \$55,295,000 which
together with the Ontario assets of the
Pension Plan, will provide for the benefits
determined in accordance with section 34 of
the Regulation. Any money allocated from
the Guarantee Fund but not required to
provide such benefits shall be returned to the
Guarantee Fund.

DATED at Toronto, Ontario, this 30th day of
June, 2005

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 83 and 89 of
the Act, respecting the **Retirement Plan for
Salaried Employees of National Refractories
& Minerals Inc. (the "Plan")** Registration
Number 0931964;

TO: Donna Wolfe
Senior Actuarial Technician
**Cowan Wright Beauchamp
Limited**
100 Regina Street S., Suite 270
Box 96
Waterloo, ON N2J 3Z6
Administrator

AND TO: Bradley Sharp
Court Appointed Responsible
Individual
**National Refractories &
Minerals Inc.**
c/o Development Specialists, Inc.
333 Grand Ave., Suite 2100
Los Angeles, California,
90071-1524
Employer

AND TO: James Graham
Schwartz Levitsky Feldman Inc.
1167 Caledonia Road
Toronto, ON M6A 2X1
Interim Receiver

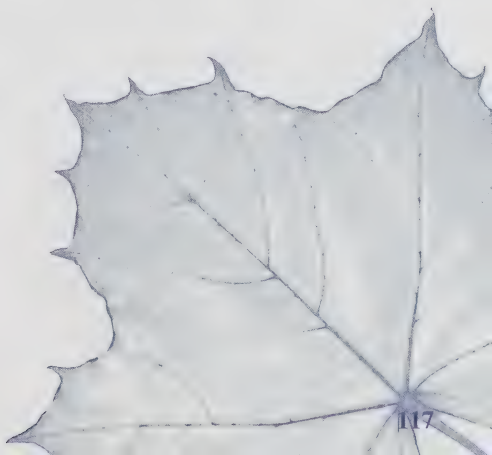
ALLOCATION

WHEREAS on May 9, 2005, the Director,
Pension Plans Branch declared, pursuant to
sections 83 and 89 of the Act, that the Pension
Benefits Guarantee Fund (the "Guarantee
Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the "Regulation"), an
amount not to exceed **\$257,274** which together
with the Ontario assets of the Pension Plan,
will provide for the benefits determined in
accordance with section 34 of the Regulation.
Any money allocated from the Guarantee
Fund but not required to provide such
benefits shall be returned to the Guarantee
Fund.

DATED at Toronto, Ontario, this 14th day of
July 2005

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the Act, respecting the **Oxford Automotive Canada Ltd. Pension Plan for Salaried Employees Located in Chatham and Wallaceburg, Ontario, Registration Number 1063023 (the "Plan")**;

TO: Mr. Tony Karkheck
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Ms. Shelley McIntyre
Manager, Compensation & Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Ms. Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

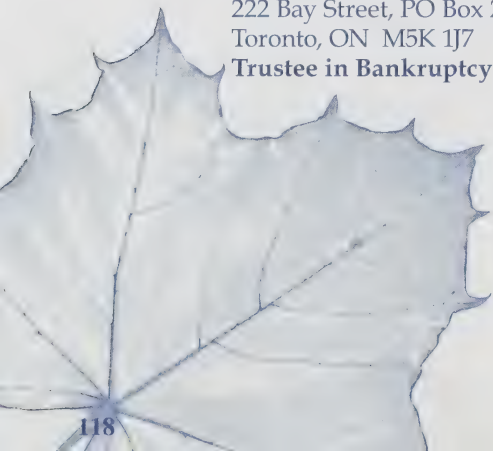
ALLOCATION

WHEREAS on the 10th day of August, 2005 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$3,030,440 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 26th day of August, 2005.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the Act, respecting the **Oxford Automotive Canada Ltd. Pension Plan for Hourly Employees Located at the Wallaceburg Plant, Registration Number 364356 (the "Plan")**;

TO: Mr. Tony Karkheck
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway,
Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Ms. Shelley McIntyre
Manager, Compensation &
Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Ms. Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

AND TO: Mr. Bill Pollock
President
**United Auto Workers Union,
Local 251**
88 Elm Drive South
Wallaceburg, ON N8A 5E7
**Union representative for the
members of the Plan**

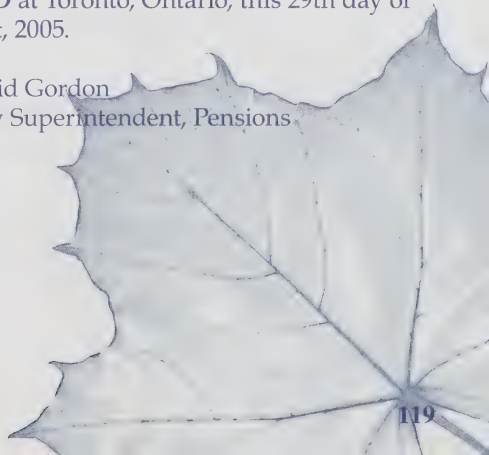
ALLOCATION

WHEREAS on the 10th day of August, 2005 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$9,048,154 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 29th day of August, 2005.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P. 8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under Section 83 of the Act, respecting the **Oxford Automotive Canada Ltd. Pension Plan for Union Employees Located at the Cambridge Plant, Registration Number 996926 (the "Plan")**;

TO: Mr. Tony Karkheck
PricewaterhouseCoopers Inc.
1 Robert Speck Parkway, Suite 1100
Mississauga, ON L4Z 3M3
Administrator

AND TO: Ms. Shelley McIntyre
Manager, Compensation & Benefits (Canada)
Oxford Automotive Canada Ltd.
100 Mason Street
Wallaceburg, ON N8A 2L3
Employer

AND TO: Ms. Rachel Pollock
Manager
Ernst & Young Inc.
222 Bay Street, PO Box 251
Toronto, ON M5K 1J7
Trustee in Bankruptcy

AND TO: Mr. Sym Gill
National Director of Pensions
**Canadian Auto Workers Union,
Local 1986**
205 Placer Court
Toronto, ON M2H 3H9
**Union Representative for the
Plan Members**

ALLOCATION

WHEREAS on the 10th day of August, 2005 a declaration was made, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the "Regulation"), an amount not to exceed \$5,770,738 that is expected to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at North York, Ontario, this 29th day of August, 2005.

K. David Gordon
Deputy Superintendent, Pensions

**FINANCIAL SERVICES TRIBUNAL ACTIVITIES****Appointments of Financial Services Tribunal Members**

Name and O.C.	Effective Appointment Date	Expiry Date
McNairn, Colin (Chair)		
O.C. 1518/2004	August 11, 2004	August 10, 2006
O.C. 1192/2004	June 9, 2004	September 8, 2004
O.C. 1623/2001	June 20, 2001	June 19, 2004
O.C. 1809/98	July 8, 1998	July 7, 2001
Corbett, Anne (Vice-Chair)		
O.C. 1519/2004	August 11, 2004	August 10, 2006
O.C. 1193/2004	June 9, 2004	September 8, 2004
O.C. 1438/2001	June 20, 2001	June 19, 2004
Solursh, John M. (Vice-Chair)		
O.C. 2407/2004	February 25, 2005	February 24, 2008
O.C. 1521/2004	August 11, 2004	August 10, 2006
Ashe, Kevin		
O.C. 1510/2002	September 26, 2002	September 25, 2005
Bharmal, Shiraz Y.M.		
O.C. 1466/2005	September 21, 2005	September 20, 2008
O.C. 1511/2002	September 9, 2002	September 8, 2005
Brown, Martin J. K.		
O.C. 1522/2004	August 11, 2004	August 10, 2006
Erlichman, Louis		
O.C. 1082/2005	June 22, 2005	June 21, 2008
O.C. 44/2005	January 22, 2005	July 21, 2005
O.C. 439/2002	January 23, 2002	January 22, 2005
O.C. 2527/98	December 9, 1998	December 8, 2001
O.C. 1592/98	June 17, 1998	December 16, 1998
Gavin, Heather		
O.C. 1083/2005	June 22, 2005	June 21, 2008
O.C. 45/2005	January 22, 2005	July 21, 2005
O.C. 440/2002	January 23, 2002	January 22, 2005
O.C. 11/99	January 13, 1999	January 12, 2002
Harmer, Lily		
O.C. 2043/2004	December 1, 2004	November 30, 2006
Holden, Florence A.		
O.C. 1523/2004	August 11, 2004	August 10, 2006

Appointments of Financial Services Tribunal Members

<u>Name and O.C.</u>	<u>Effective Appointment Date</u>	<u>Expiry Date</u>
Litner, Paul W. O.C. 1465/2005 O.C. 1512/2002	September 21, 2005 September 9, 2002	September 20, 2008 September 8, 2005
Scane, Ralph Edward O.C. 1520/2004	August 11, 2004	August 10, 2006
Shilton, Elizabeth O.C. 758/2005	May 18, 2005	May 17, 2008
Short, David A. O.C. 2095/2004 O.C. 2118/2001	November 3, 2004 October 24, 2001	November 2, 2006 October 23, 2004

Pension Hearings Before the Financial Services Tribunal

Revised Retirement Plan for Employees of the Allen-Bradley Division of Rockwell International of Canada (now the Pension Plan for Employees of Rockwell Automation Canada Inc.), Registration Number 321554, and the Pension Plan for Salaried and Management Employees of Reliance Electric Limited, Registration Number 292946, FST File Number P0051-1999;

On May 18, 1999, members of the Reliance Plan, requested a hearing regarding a decision of the Director of the Pension Plans Branch of the Financial Services Commission, by delegated authority from the Superintendent of Financial Services, dated March 20, 1999, with respect to the transfer of assets from the Pension Plan for Salaried and Management Employees of Reliance Electric Limited to the Revised Retirement Plan for Employees of the Allen-Bradley Division of Rockwell International of Canada.

On June 2, 1999, an application for party status was filed by Rockwell Automation Canada Inc. At the pre-hearing conference on July 6, 1999 full party status was granted. The matter was then adjourned *sine die* as the Applicants indicated that an application would be made to the Superintendent requesting a wind up of the Reliance Plan and all parties agreed that it would be premature to proceed in this matter until the Superintendent has made a decision respecting the request for wind up.

The pre-hearing conference resumed on January 20, 2005, and subsequently continued on May 2, June 16, July 11 and November 9, 2005. The hearing is scheduled for November 16, 21 and 22, 2005.

Schering-Plough Healthcare Products Canada Inc. Salaried Employees' Pension Plan, Registration Number 297903, FST File Number P0085-1999;

On November 10, 1999, Schering-Plough Healthcare Products Canada Inc. filed a request for hearing regarding the Superintendent's Notice of Proposal dated October 14, 1999, ordering Schering-Plough Healthcare Products Canada Inc. to amend the partial wind up report with respect to its salaried pension plan as at August 31, 1996, so that provision is made for the distribution of the surplus attributable to the partial wind up group.

On March 27, 2000, Ken Reynolds, Michel Gariepy, Edward Taylor and Jim Wilson filed an application for party status. The matter was adjourned *sine die* on May 10, 2000 pending the outcome of the Monsanto case. On July 29, 2004, the Supreme Court of Canada released its decision in the *Monsanto* case. On September 2, 2004, the Superintendent requested a pre-hearing conference be scheduled.

The pre-hearing conference scheduled on December 15, 2004, was adjourned on consent of the parties and rescheduled for March 30, 2005. On March 10, 2005, the parties advised that a revised partial wind up report was filed with the Superintendent and requested that the pre-hearing conference on March 30, 2005, be adjourned pending the issue of an amended notice of proposal. On March 14, 2005, the matter was adjourned *sine die*. On June 3, 2005, the Superintendent requested that the matter be brought back on for a pre-hearing conference. At the pre-hearing conference on September 27, 2005 full party

status was granted to the Estate of Ken Reynolds, Michel Gariépy, Edward Taylor and Jim Wilson. The hearing is scheduled for January 9 and 10, 2006.

Elaine Nolan, George Phillips, Elisabeth Ruccia, Kenneth R. Fuller, Paul Carter, R.A. Varney and Bill Fitz being the members of the DCA Employees Pension Committee, Pension Plan for the Employees of Kerry (Canada) Inc., Registration Number 238915, FST File Number P0192-2002;

On May 27, 2002, William Fitz on behalf of the DCA Employees Pension Committee, requested a hearing regarding the Superintendent's Notice of Proposal, dated April 22, 2002, proposing to refuse to make an order that:

- the Plan be wound up, effective December 31, 1994;
- Kerry (Canada) Inc. pay to the pension fund (the "Fund") of the Plan all employer contributions for which a contribution holiday was taken since January 1, 1985, together with income that would have been earned by the Fund if those contributions had been made; and
- registration of the Revised and Restated Plan Text dated January 1, 2000, and all amendments to the Plan included therein, be refused.

On June 5, 2002, Kerry (Canada) Inc. filed an application for party status.

At the pre-hearing conference on October 15, 2002, full party status was granted to Kerry (Canada) Inc. The pre-hearing conference was adjourned to allow the parties to bring certain motions with respect to disclosure.

At the motion hearing on December 6, 2002, three orders for disclosure were issued, one against Kerry (Canada) Inc., one against the DCA Employees Committee and one against the Superintendent.

On January 22, 2003, the pre-hearing conference resumed and was further adjourned to allow a further disclosure motion to be brought by the DCA Employees Pension Committee. The motion was heard on March 27, 2003, at which time it was dismissed.

On June 5, 2003, the pre-hearing conference resumed to deal with the framing of the "partial wind-up issue." The DCA Employees Pension Committee indicated that it would be bringing a motion for an order that would add an issue to or otherwise amend the matters in issue. That motion and another motion by Kerry (Canada) Inc. to amend the "partial wind up issue" were heard on June 25, 2003. At the hearing, the parties agreed on a revised wording of the "partial wind up issue," and it was ordered that the statement of the issues in the proceeding be amended accordingly.

At a resumption of the pre-hearing conference on October 14, 2003, the parties agreed to hearing dates. On March 2-3, 2004, the Tribunal heard the evidence of the witnesses who were put forward in this matter.

On April 8, 2004, the Tribunal heard argument from the parties with respect to the DCA Employees Pension Committee's request that the Tribunal issue reasons for decision concerning the earlier motions for disclosure brought by the Committee. The Tribunal denied the request. The Tribunal also heard argument from the parties concerning the Applicant's reply submissions, in addition

to a request that the argument phase of the hearing be adjourned to permit surreply submissions from the Respondents. The Respondents argued that the Applicant's reply submissions raised new issues and arguments not previously addressed. The request for adjournment was granted to allow the Respondents time to prepare, file and serve surreplies to the Applicant's reply. On June 8 and 9, 2004, the Tribunal heard oral arguments from the parties.

In its Reasons for Decision dated September 1, 2004, the Tribunal ordered the Superintendent to carry out the proposals in its Notice of Proposal except that the Superintendent was ordered to deny registration of the 2000 Plan unless certain amendments were made to preserve the interests of the Plan members who were beneficiaries of the trust in respect of the Fund, failing which the Superintendent was ordered to require Kerry (Canada) to reimburse the Fund for contribution holidays taken in respect of the Plan since January 1, 2000. The Reasons for Decision were published in Volume 14, Issue 1 of the Pension Bulletin. On September 29, 2004, the DCA Employees Committee filed a notice of appeal in the Ontario Superior Court of Justice (Divisional Court).

On September 29, 2004, the DCA Employees Pension Committee made a request to the Tribunal for an order of costs against Kerry (Canada) Inc. payable out of the Fund. On October 1, 2004, Kerry (Canada) Inc. made a request to the Tribunal for an order of costs against the DCA Employees Pension Committee. A hearing on the issue of costs was held on December 9, 2004. In its Reasons dated December 24, 2004, the Tribunal denied both applications for cost orders. The Reasons

dated December 24, 2004, were published in Volume 13, Issue 3 of the Pension Bulletin. On December 30, 2004, the DCA Employees Committee filed a supplementary notice of appeal in the Ontario Superior Court of Justice (Divisional Court) relating to the dismissal of its application for costs. The appeal of the DCA Employees Committee was heard along with an appeal by that Committee from the decision of the Tribunal in the Kerry (Canada) Inc. case (the Reasons For Decision in the latter case, dated March 4, 2004, were published in Volume 13, Issue 2 of the Pension Bulletin). The Court reserved its decision in both cases.

Hugo Jaik, Electrical Industry of Ottawa Pension Plan, Registration Number 0586396, FST File Number P0235-2004;

On February 16, 2004, Hugo Jaik, a former member of the Plan, requested a hearing regarding the Deputy Superintendent, Pensions' Notice of Proposal, dated January 28, 2004, to refuse to make an order requiring the Board of Trustees of the Electrical Industry of Ottawa Pension Plan (the "Board") to recalculate the pension benefits of members, and specifically to recalculate Mr. Jaik's pension benefit, and requiring that the composition of the Board be amended to comply with the terms of the Plan and declaring that the decisions of the Board improperly constituted are invalid.

A pre-hearing conference was held on May 25, 2004. On July 15, 2004, the Board filed an application for party status. At a resumption of the pre-hearing conference on July 26, 2004, full party status was granted to the Board.

At a settlement conference on August 5,

2004, the parties were unable to settle the matter. At a resumption of the pre-hearing conference on August 30, 2004, the hearing date of September 27, 2004 was cancelled and rescheduled to November 30, 2004, and was further rescheduled to January 24, 2005.

In its Reasons for Decision dated July 11, 2005, the Tribunal confirmed the Superintendent's Notice of Proposal that the Board not be required to recalculate the pension and benefits of Mr. Jaik or to amend the composition of the Board. The Tribunal found that Mr. Jaik's pension was correctly calculated in accordance with the applicable plan provisions, and found no evidence that the Board was improperly constituted. The Reasons for Decision dated July 11, 2005 are published in this bulletin on page 140.

On July 22, 2005, Mr. Jaik filed a request for review of the Tribunal's Order dated July 11, 2005. In its Reasons for Decision dated September 30, 2005, the Tribunal concluded that the material filed by Mr. Jaik did not identify any relevant circumstances including a material error of law or fact such that the panel would likely have reached a different decision but for such error. The Tribunal denied Mr. Jaik's Request for Review and confirmed its Order of July 11, 2005. The Reasons for Decision dated September 30, 2005, are published in this bulletin on page 154.

Coats Canada Inc., Coats Canada Employees' Pension Plan, Registration Number 288563, FST File Number P0237-2004;

On March 2, 2004, Coats Canada Inc. (the "Employer"), requested a hearing regarding the Deputy Superintendent, Pensions, Notice of Proposal dated February 5, 2004, to make

an Order under section 69(1) of the Act, that the Plan be wound up in part in relation to those members and former members of the Plan who were employed by the Employer and who ceased to be employed between July 1999, and December 31, 1999, as a result of:

- (i) the discontinuance of all or a part of the business of the Employer; or
- (ii) the discontinuance of all or a significant portion of the business carried on by the Employer at its Coats Paton Division

On March 4, 2004, the Applicant requested agreement from the Superintendent to adjourn this matter *sine die* pending the outcome of the *Monsanto* case. On March 12, 2004, the Superintendent agreed to the adjournment. On July 29, 2004, the Supreme Court of Canada released its decision in the *Monsanto* case. On September 2, 2004, the Superintendent requested a pre-hearing conference be scheduled.

At a pre-hearing conference on April 15, 2005, the parties agreed that the hearing would proceed as a written hearing unless there was an objection by someone who seeks and obtains party status. On July 11, 2005, the Applicant withdrew the request for hearing.

Mary Sutton and other members and former members, AIG Assurance Canada Pension Plan, Registration Number 0284604, FST File Number P0245-2004;

On November 23, 2004, Mary Sutton and other members and former members of the AIG Pension Plan (the "Applicants") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions,

dated October 22, 2004, proposing to refuse to make an Order that the AIG Pension Plan be wound up pursuant to s. 69(1)(a) of the *Pension Benefits Act* (the "Act"). On December 3, 2004, AIG Assurance Canada (the "Employer") filed an application for party status.

The Applicants had asked the Superintendent to make an Order that the AIG Pension Plan be wound up principally on the basis that the Employer had discontinued all contributions to the Plan at such time as the members commenced participation in another pension plan – the "Commerce Pension Plan" – which was established on a defined contribution basis. The AIG Pension Plan was a defined benefit plan with a substantial surplus. It was converted to a defined contribution plan immediately before the members commenced participation in the Commerce Pension Plan. Those members were given the option of converting their accrued benefits under the AIG Pension Plan into a defined contribution account or having those benefits provided by way of annuities.

The Employer had applied for the Superintendent's approval, pursuant to s. 81 of the Act, to the transfer of the assets of the AIG Pension Plan, including the assets representing the surplus in the Plan, to the Commerce Pension Plan. The Applicants, relying on the decision of the Ontario Court of Appeal in *Aegon Canada Inc. and Transamerica Life Canada v. ING Canada Inc.*, [2003] O.J. No. 4755, objected to the grant of such approval on the basis that the pension and other benefits of the members of the AIG Pension Plan would not be protected in such a transfer.

In refusing to order that the AIG Pension Plan be wound up, the Deputy Superintendent

took the position that s. 69(1)(a) of the Act can have no application where the assets of a pension plan are being transferred to a successor pension plan and that transfer can be approved pursuant to s. 81 of the Act. As to the application for approval of the transfer of assets from the AIG Pension Plan to the Commerce Pension Plan, the Deputy Superintendent took the position that, unlike the situation in *Aegon*, the trust in respect of the AIG Pension Plan did not preclude the amendment of the Plan to allow for its merger with another pension plan, which amendment had been made, and no separate accounting of the assets contributed to the merged pension plan was required. A final decision on the application for approval of the asset transfer, pursuant to s. 81 of the Act, was, nonetheless, deferred pending the outcome of the Notice of Proposal to refuse to order the wind up of the AIG Pension Plan.

The pre-hearing conference scheduled for February 18, 2005, in this matter, was adjourned on consent of the parties and re-scheduled to March 22, 2005. At the pre-hearing conference, full party status was granted to the Employer.

On May 31, 2005, the Tribunal heard argument from the parties with respect to a motion filed by the Applicant Mary Sutton, for disclosure by the Employer of certain documents, in addition to those already disclosed, in particular various reports relating to the conversion and transfer of assets from the AIG Pension Plan, prepared for the administrator of the AIG Pension Plan. That motion was dismissed by order of the Tribunal dated June 6, 2005. The Reasons for that order, dated June 6, 2005, are published in this bulletin on page 136.

The hearing was held on June 27 and 28, 2005. In its Reasons for Decision dated September 6, 2005, the Tribunal ordered the Superintendent to carry out the proposal made through his delegate, the Deputy Superintendent, to refuse to wind up the AIG Plan. The Tribunal concluded that even though a transfer of assets between an original pension plan and a successor pension plan occurs such that the original plan "shall be deemed not to be wound up", by virtue of s. 81(1) of the Act, the Superintendent is not deprived of jurisdiction under s. 69(1)(a) of the Act to order a wind-up of the original plan in any of the circumstances set out in s. 69(1)(a). However, the Tribunal found no reason to interfere with the proposed refusal by the Deputy Superintendent to order a wind-up of the original plan in this case given the discretion vested in the Superintendent under s. 69(1)(a), and, indeed it concluded that, in the circumstances, the Deputy Superintendent was correct in refusing to order a wind-up. The Reasons for Decision dated September 6, 2005, are published in this bulletin on page 147.

Julian Paul, Ontario Public Service Employees' Union Pension Plan, Registration Number 1012046, FST File Number P0246-2004;

On December 7, 2004, Julian Paul (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated November 30, 2004, to refuse to make an Order, pursuant to s. 87(1) of the *Pension Benefits Act* (the "Act"), directing the OPSEU Pension Plan to allow the Applicant to purchase past service credits in the Plan for the period December 3, 1977 to April 2, 1979. The Order was refused on the basis that the Applicant, while eligible

to purchase certain past service credits, had not submitted a formal application to effect such a purchase within the relevant time limits for making such an application. In the circumstances, the Deputy Superintendent concluded that the administrator of the Plan had not failed to administer the Plan in accordance with the provisions of the Act, the Regulation under the Act or the Plan so as to justify the making of an Order pursuant to s. 87(1) of the Act.

On February 3, 2005, an application for party status, in this matter, was filed by OPSEU Pension Trust, the administrator of the Plan. At the pre-hearing conference on February 24, 2005, full party status was granted.

The hearing was held on April 27, 2005. In its Reasons dated September 30, 2005, the Tribunal concluded that the Applicant was not entitled to purchase past service credits in the Plan because he had not submitted an application to do so within a relevant buy back window as set out by the terms of the Plan. The Tribunal, therefore, confirmed the Superintendent's Notice of Proposal. The Reasons dated September 30, 2005, are published in this bulletin on page 157.

Paramount Pictures (Canada) Inc., Retirement Plan for Salaried Employees of Famous Players and Subsidiary and Affiliated Companies, Registration Number 552752, FST File Number P0248-2005;

On January 7, 2005, Paramount Pictures (Canada) Inc. (the "Employer") requested a hearing regarding three Notices of Proposal of the Deputy Superintendent, Pensions, dated December 3, 2004, proposing to:

- refuse to approve a report, dated May

7, 2002, on the actuarial valuation of the retirement plan for the salaried employees of the Employer (the "Pension Plan") as at December 31, 2001;

- refuse consent to an application, dated January 9, 2003, submitted by the Employer, for the withdrawal of surplus on the wind up of the Pension Plan; and
- make an Order winding up the Pension Plan effective December 31, 2001.

The approval and consent were sought by the Employer pursuant to ss. 70(5), and 78(1), respectively, of the *Pension Benefits Act* (the "Act") and the Order was proposed to be made by the Deputy Superintendent under s. 69(1)(a) of the Act.

The Deputy Superintendent refused to approve the report on the actuarial valuation of the Pension Plan because the proposal to wind up the Plan was not unconditional, being dependent on the Employer obtaining the necessary regulatory and court approvals, and because the report did not, apparently, include all the members affected by the Plan termination.

The request for approval of the surplus withdrawal application was refused because:

- the Pension Plan was not being wound up given the contingent nature of the wind up proposal, in which case consent of all the Plan members to any withdrawal of surplus was required, as it was an on-going pension plan, but such unanimous approval was not obtained;
- the Plan did not provide for payment

of surplus to the Employer on wind up of the Plan as there was a trust, for the benefit of the members of the Plan, in respect of the pension fund for the Plan and as no power was reserved to revoke that trust, the amendments to the terms of the trust providing that, at termination of the Plan, any surplus in the pension fund should be paid to the Employer, were invalid.

The Deputy Superintendent proposed to make the Order winding up the Pension Plan, effective December 31, 2001, on the basis that as at May 31, 2001 there was a cessation of employer contributions to the pension fund as evidenced by notices sent by the Employer to the members on that date proposing to terminate the Plan and share the surplus with the members and by the report on the actuarial valuation of the Plan as at December 31, 2001, which indicated that there were no active members and that the Employer was not required to make contributions to the Plan.

The pre-hearing conference scheduled for April 5, 2005 was adjourned on March 31, 2005, at the request of the parties, in favour of a settlement conference. After a settlement conference held on June 1, 2005, the parties agreed to inform the Registrar when they wish to proceed with the matter before the Tribunal.

On August 4, 2005, Gerry Dillon, a former member of the Plan, and acting in a representative capacity in the interests of all plan beneficiaries, filed an application for party status. On September 23, 2005, the pre-hearing conference resumed at which time full party status was granted to Mr. Dillon. The parties sought an adjournment of the

proceedings on the basis that a class action proceeding was about to be commenced in the Ontario Superior Court with respect to the issue of entitlement to surplus. The parties anticipate that the action will be certified as a class proceeding in October 2005, and that the application will be heard by the Court in January 2006. In order to permit the application to proceed, the Tribunal ordered the pre-hearing conference adjourned to January 31, 2006.

Donna Capaldi; Retirement Income Plan for Union Employees of Dominion Stores Limited (1979), Registration Number 0005188, FST File Number P0253-2005;

On June 1, 2005, Donna Capaldi, requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated May 10, 2005, refusing to make an order under sections 42(5), 42(11), and 87(2)(c) of the *Pension Benefits Act*, requiring the administrator of the Plan to pay certain pension benefits from the Retirement Income Plan for Union Employees of Dominion Stores Limited (1979), to Donna Capaldi, beneficiary of Tony (Antonio) Capaldi.

On August 4, 2005, an application for party status, in this matter, was filed by Domgroup Ltd., the employer and administrator of the Plan. At the pre-hearing conference on October 3, 2005, full party status was granted to Domgroup. The hearing is scheduled for January 24, 2006.

Shoppers Drug Mart Inc., Pension Plan for Executives of Shoppers Drug Mart Inc. Registration Number 1066083, FST File Number P0256-2005;

On July 8, 2005, Shoppers Drug Mart Inc. (the

"Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated June 8, 2005, to make an order under section 69 of the *Pension Benefits Act*, that the Plan be wound up in part in relation to those members of the Plan who ceased to be members of the Plan as a result of cessation of employment with the Applicant on or before January 15, 2003.

The pre-hearing conference is scheduled for November 17, 2005.

Hydro One Members Committee; Hydro One Pension Plan Registration Number 1059104; FST File Number P0257-2005

On July 29, 2005, the Hydro One Members Committee, requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated July 14, 2005, refusing to make an order under section 69 of the *Pension Benefits Act*, that the Plan be wound up in part in relation to those members of the Plan whose employment terminated between January 1, 2002 and December 31, 2002.

On August 24, 2005, an application for party status, in this matter, was filed by Hydro One Inc. On September 19, 2005, an application for party status was filed by the Power Workers' Union.

The pre-hearing conference is scheduled for December 20, 2005.

Board of Trustees of the Labourers Pension Fund of Central and Eastern Canada, Registration Number 0573188; FST File Number P0258-2005;

On August 4, 2005, the Board of Trustees

of the Labourers Pension Fund of Central and Eastern Canada, requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated July 7, 2005, proposing to order the Administrator of the plan, pursuant to section 88 of the Pension Benefits Act, to prepare and file a new actuarial valuation report as at December 31, 2003 in respect of the Plan, that complies with sections 6, 14, 16 and 17 of Regulation 909, R.R.O. 1990 (the Regulation) and, specifically, which includes either,

- (1) the results of such tests performed on both a going concern and solvency basis as will demonstrate the sufficiency of the contributions to provide for the benefits set out in the Plan without consideration of any provision for reduction of benefits set out in the Plan; or
- (2) where contributions are not sufficient to provide the benefits under the Plan as determined on both a going concern and solvency basis, a proposal by the actuary of options available to the administrator of the Plan that will have the result that the required contributions will be sufficient to provide the benefits under the Plan on both a going concern and solvency basis.

A pre-hearing conference is scheduled for November 1, 2005.

Jerry Coelho, Kerry Wilson, and the Trustees of the Canadian Bricklayers and Allied Craft Union Members Pension Trust, Bricklayers & Trowel Trades International Pension Plan, Registration Number 392175; Canadian Bricklayers and Allied Craft Union Members

Pension Trust, Registration Number 1063478, FST File Number P0259-2005;

On September 27, 2005, Kerry Wilson, and the Trustees of the Canadian Bricklayers and Allied Craft Union Members Pension Trust (the "Applicants"), requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated September 13, 2005, refusing to order the Board of Trustees of the Bricklayers and Trowel Trades International Pension Plan, Registration Number 392175 (the "International Plan") to transfer certain assets to the Canadian Bricklayers and Allied Craft Union Members Pension Trust, Registration Number 1063478 (the "Allied Craft Plan") pursuant to section 80(8) and 80(9) of the *Pension Benefits Act*.

On November 1, 2005, an application for party status in this matter was filed by the Bricklayers and Trowel Trades International Pension Fund-Canada ("IPF-Canada").

A pre-hearing conference is scheduled for January 16, 2006.

The following cases are adjourned *sine die*

- **The Retirement Plan for Salaried Employees (Consumer Foods) of General Mills Canada, Inc., Registration Number 342042, FST File Number P0058-1999;**

A pre-hearing conference scheduled for December 8, 2004 was adjourned *sine die* at the request of the parties on October 27, 2004, due to settlement discussions.

- **Cooper Industries (Canada) Inc.,**

Retirement Plan for Salaried Employees of Cooper Canada – Plan A Registration Number 0240622, FST File P0156-2001;

The pre-hearing conference, scheduled for November 1, 2004, was adjourned on consent of the parties to allow for settlement discussions.

- **Crown Cork & Seal Canada Inc., Registration Numbers 474205, 595371 & 338491, FST File Number P0165-2001;**
At a settlement conference on October 30, 2001, the parties agreed to adjourn the matter *sine die* pending discussions between the parties.
- **James MacKinnon (Labourers' Pension Fund of Central and Eastern Canada), Registration Number 573188, FST File Number P0167-2001;**
On July 10, 2002, the hearing dates were adjourned *sine die* on consent of the parties.
- **Bauer Nike Hockey Inc. Pension Plan for Employees of Bauer Nike Hockey Inc., Registration Number 257337, FST File Number P0189-2002;**
At the pre-hearing conference on October 28, 2002, the matter was adjourned *sine die* pending the outcome of the *Monsanto* case.
- **Slater Steel Inc. Pension Plan for Corporate Employees and Salaried Employees of the Hamilton Specialty Bar Division, Registration Number 308338, FST File Number P0203-2002;**
On June 2, 2003, an Order was issued by the Ontario Superior Court of

Justice in relation to Slater Steel Inc., pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings. The hearing in this matter originally scheduled for October 8-10, 15-16, 2003, therefore, did not proceed.

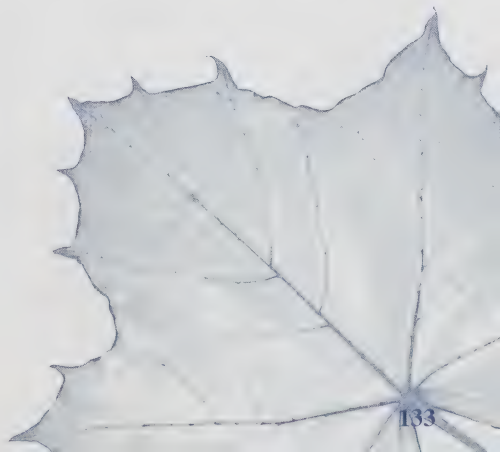
- **George Polygenis, Public Service Pension Plan, Registration Number 0208777, FST File Number P0204-2002;**
On May 29, 2003, the parties consented to adjourn the June 11, 2003 hearing date *sine die* pending finalization of a settlement.
- **Slater Stainless Corp. Pension Plan for Slater Stainless Corp. Members of the National Automobile Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), Registration Number 561456, FST File Number P0220-2003;**
The pre-hearing conference scheduled for June 16, 2003 did not proceed since an Order was issued on June 2, 2003 by the Ontario Superior Court of Justice in relation to Slater Stainless Corp., pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings.
- **Slater Stainless Corp. Pension Plan for Slater Stainless Corp. Members of the United Steel Workers of America (Local 7777), Registration Number 561464, FST File Number P0221-2003;**
The pre-hearing conference scheduled for June 16, 2003 did not proceed since an Order was issued on June 2, 2003 by

the Ontario Superior Court of Justice in relation to Slater Stainless Corp., pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings.

- **Jane Parker Bakery Limited Retirement Plan for Full-time Bargaining Employees, Registration Number 0400325, FST File Number P0224-2003;**
On September 8, 2003, the parties advised they agreed to proceed with settlement discussions, and requested that the pre-hearing conference scheduled for September 10, 2003, be adjourned to a date to be determined if one becomes necessary.
- **Plumbers Local 463 Pension Plan, Registration Number 0598532, FST File Number P0230-2003;**
On February 26, 2004, the matter was adjourned *sine die* pending the outcome of an application, by the Applicant, for judicial review of the Superintendent's Order dated October 6, 2003.
- **Peter Stopyn, Douglas Llewellyn, United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 67, Registration Number 381525, FST File Number P0239-2004;**
The pre-hearing conference scheduled for November 23, 2004, was adjourned *sine dine* at the request of the Applicants.

- **Stel Salaried Pensioners**

Organization, Stelco Inc. and Participating Subsidiaries Retirement Plan for Salaried Employees, Registration Number 0338509; the Stelco Inc. Retirement Plan for Lake Erie Steel Company Salaried Employees, Registration Number 0698753, "the Salaried Pension Plans", FST File Number P0250-2005;
On January 31, 2005, members of the Stel Salaried Pensioners Organization filed a Notice of Appeal in respect of a letter from the Pension Plans Branch of the Financial Services Commission of Ontario, dated January 7, 2005. This matter stands adjourned *sine die* due to a stay of proceedings against Stelco Inc. pursuant to proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36.



Financial Hardship

Application to the Superintendent of Financial Services for Consent to Withdraw Money from a Locked-in Retirement Account, Life Income Fund or Locked-in Retirement Income Fund based on Financial Hardship.

FST File Number	Superintendent of Financial Services' Notice of Proposal	Comments
No Decisions to Report		

Decisions to be Published

Mary Sutton (AIG Assurance Canada)

Hugo Jaik (Electrical Industry of Ottawa Pension Plan)

Julian Paul (Ontario Public Service Employees' Union Pension Plan)

**Financial Services Tribunal Decisions with Reasons**

INDEX NO.: FST File No. P0245-2004
Decision No. P0245-2004-1

PLAN: Pension Plan for the Salaried Employees of AIG Assurance
Canada Registration Number 0284604 (the "Plan")

DATE OF DECISION: June 6, 2005

PUBLISHED: Bulletin 14/3 and FST website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c.P8, as amended by the *Financial
Services Commission of Ontario Act*, 1997, S.O.
1997, c.28 (the "Act");

AND IN THE MATTER OF a Proposal by the
Superintendent of Financial Services under
section 89(5) of the *Act*, to Refuse to Make
an Order pursuant to section 69 of the *Act*,
respecting the Pension Plan for AIG Assurance
Canada Pension Plan for Salaried Employees,
Registration Number 0284604 (the "Plan");

AND IN THE MATTER OF a Hearing in
accordance with subsection 89(8) of the *Act*;

BETWEEN:

MARY SUTTON
Applicant

-and-

**SUPERINTENDENT OF FINANCIAL
SERVICES
And AIG ASSURANCE CANADA**
Respondents

BEFORE:

Mr. Ralph Scane
Member of the Tribunal and Chair of the
Panel

Mr. Louis Erlichman
Member of the Tribunal and of the Panel

Mr. Martin Brown
Member of the Tribunal and of the Panel

APPEARANCES:

For Mary Sutton:
Ms. Susan Philpott
Ms. Clio Godkewitsch

**For the Superintendent of Financial
Services:**
Ms. Deborah McPhail

For AIG Assurance Canada:
Mr. Mahmud Jamal
Mr. Evan Howard

HEARING DATE:
May 31, 2005

Reasons for Order on Motion for Disclosure

On May 31, 2005, the Tribunal held an oral hearing of an interlocutory motion by the Applicant Mary Sutton to require the Respondent AIG Assurance Canada (AIG) to produce documents, in addition to those already produced by AIG. The Tribunal reserved its decision. On June 1, 2005, the Tribunal issued an order dismissing the application, with reasons to follow.

Background

The motion was brought in aid of a Request for Hearing filed by the Applicant pursuant to s.89(8) of the *Pension Benefits Act*, R.S.O. 1990 c.P.8, (the PBA). The Request concerns a Notice of Proposal issued by the Superintendent of Financial Services (the Superintendent) proposing to refuse to make an order for a full winding up of a certain pension plan, pursuant to s. 69(1)(a) of the PBA.

The Plan in question is the AIG Assurance Canada Pension Plan for Salaried Employees (the AIG Plan). This was originally the Norwich Union Life Insurance Company (Canada) Pension Plan for Salaried Employees. The Plan name was changed on May 1, 2001 when the corporate name was amended on a change of share control. The Plan is a defined benefit plan. AIG is the Plan sponsor and Administrator. Mary Sutton (the Applicant) is a beneficiary of the AIG Plan. As of May 1, 2001, there was an actuarial surplus in the AIG Plan. On the same date, May 1, 2001, AIG became a participating employer under the Commerce and Industry Insurance Company of Canada Pension Plan (the Commerce Plan), sponsored by an affiliate of AIG. All members of the

AIG Plan ceased to participate in that plan with respect to future services from that date forward. For those future services, they became members of the Commerce Plan, which is a defined contribution plan. AIG has applied to convert the AIG Plan to a defined contribution plan. Members of that plan have been offered certain elections whether to convert their accrued benefits to defined contribution benefits or have them provided for by purchases of annuities. AIG's conversion report was filed with the Superintendent on September 19, 2002. The Tribunal was advised that the Financial Services Commission of Ontario (FSCO) has approved the conversion in principle, but that final approval of the related conversion amendments is being held in abeyance pending resolution of the merger application referred to below.

On October 25, 2002, AIG applied to merge the AIG Plan with the Commerce Plan, and in that application seeks to transfer all assets from the AIG Plan to the Commerce Plan.

It must also be noted that, in the draft Agreed Statement of Facts prepared by Counsel for AIG as agreed in the Pre-Hearing Conference, and circulated to the Parties, it was disclosed that, since May 1, 2001, funds had been transferred periodically from the AIG Plan to the Commerce Plan to fund the defined contribution benefits of the former AIG Plan members participating in the Commerce Plan. Solicitors for AIG apparently communicated this fact to FSCO in June, 2004. FSCO requested the voluntary return of the assets so transferred. Certain correspondence between counsel for AIG or AIG and FSCO was attached to the draft and thus available to the Parties, but was not before the Tribunal on this motion.

The Motion for Disclosure

The Applicant has moved for disclosure by AIG of:

- (1) All reports prepared for Norwich Union Life Insurance Company and/or AIG Assurance Canada, in their capacity as Plan administrator of the AIG Plan, by any of its agents and/or service providers, including but not limited to, any reports prepared by legal and actuarial consultants relating to:
 - a. the proposed conversion of the AIG plan;
 - b. the proposed merger of the AIG Plan; and
 - c. the transfer of assets from the AIG Plan to the Commerce and Industry Company of Canada Plan.

The requested documents are in addition to any documents disclosed by AIG in its List of Documents submitted pursuant to agreements made at the Pre-hearing Conference in this matter. Since submitting this list, AIG has also produced "additional documents in respect of the background of the repatriation of assets from the Commerce Plan to the AIG Plan, as well as reports provided to the administrator with respect to the financial status of the Plan between 2000 and the present." (AIG's Responding Motion Record, p.8, Para. 32). At the hearing, Counsel for the Applicant disclaimed any intention that plan related documents comprised in the documentation of the purchase of the controlling share interest of Norwich Life Insurance Company (Canada) be considered as included in those sought on this motion.

Conclusions of the Tribunal

It is no secret that the Applicant fears that this merger will expose the current actuarial surplus in the AIG Plan to being applied for the benefit of AIG or of members of the Commerce Plan who are not former members of the AIG Plan, to the detriment of present and retired members of the AIG Plan. The substantive application for a full wind up of the AIG Plan, of which this interlocutory motion is a part, is part of the Applicant's efforts to prevent this result.

Unfortunately, from the Tribunal's point of view at least, consideration by the Superintendent or the Tribunal of the entire series of completed and proposed transactions with respect to what is really at stake between the Applicant and the Respondent AIG must be done piecemeal. Counsel for the Superintendent advised the Tribunal that the Superintendent felt constrained by the decision of the Ontario Court of Appeal in *Huus et al. v. Superintendent of Pensions et al.*, (2002) 58 O.R.(3d) 380 to deal with the present substantive application for a full winding up before turning to a consideration of the pending application for plan merger and transfer of assets under s.81 of the PBA. Whether it is necessary to separate the winding up application from the succeeding issues as thoroughly as was done here in order to comply with the letter and spirit of the Court's comments may invite review on some other occasion, but this motion is not the appropriate place.

At the Pre-Hearing Conference in this matter, held on March 22, 2005, the matters in issue in the Application were framed, by agreement of the Parties, as follows:

- (a) Should the Tribunal direct the Superintendent to order a full wind up of the Plan under clause 69(1)(a) of the *Act*?
- (b) If the answer to (a) is yes, what is the appropriate time for the full wind up?

It is tempting, from at least the Tribunal's point of view, to treat this motion as if it were a motion for discovery covering all the issues which might arise between the Parties out of the past or proposed steps taken or sought to be taken by AIG with respect to the Plan and the funds in it. However, the Tribunal considers that this is not the proper approach. Anything ordered to be disclosed must be relevant to the agreed issues in this application, as set out above.

Section 69(1)(a) of the *PBA* reads:

69. (1) The Superintendent by order may require the wind up of a pension plan in whole or in part if,

- (a) there is a cessation or suspension of employer contributions to the pension fund;

On the face of things, whether the conditions set out in subsection (a) exist appears to be a question of fact, which is separate and apart from the transactions concerning which the notice of motion seeks information, namely the proposed conversion of the AIG Plan to a defined contribution plan, the proposed merger of the AIG and Commerce Plans, and the transfer of funds from the AIG Plan to the Commerce Plan as described in the draft Statement of Facts circulated by Counsel for AIG. There will also apparently

be a question of law argued at the hearing of the substantive motion, namely whether, in view of s.81(1) of the *PBA*, s.69(1)(a) has any application at all in the circumstances which exist here. Documentation surrounding the matters described in the Notice of Motion is not relevant to this argument.

Counsel for the Applicant argued that the types of documentation she was requesting were relevant to the application under s.69(1)(a) because the Section, by the use of the word *may* in its opening words, confers a discretion upon the Superintendent to refrain from ordering a wind up of a pension plan even if the conditions stipulated in the various subsections are found to exist. Admittedly, the discretion is only to "refrain". It was not suggested that the Section conferred any discretion to order a wind up if the statutory requirements were not met. Counsel argued that the disclosure of the transfer of funds from the AIG to the Commerce Plans indicated that the funds of the AIG Plan were in danger of some wrongful manipulation, and it was possible that other documentation surrounding the transactions to which she referred in her Notice of Motion would reveal something which would strengthen that appearance of danger. This information might cause the Superintendent, or the Tribunal, not to exercise a discretion which might otherwise have been exercised against ordering the winding up.

For the purposes of the above argument, the Applicant is entitled to the benefit of the assumption that s.69(1)(a) remains operative in the circumstances of this case, notwithstanding the presence of s.81(1) in the *PBA*.

The Tribunal, since its decision in an interlocutory motion for disclosure in the matter *Monsanto Canada Inc. v. Superintendent of Financial Services, Decision No. P0013-1998-1*, has applied the test that, inter alia, “the information is arguably relevant to an issue in the proceedings”. Counsel for the Superintendent submitted to the Tribunal that “arguably relevant” meant that the applicant for disclosure must show a “pretty good case” for relevance. The Tribunal does not think it necessary in this case to examine whether the threshold is really that high. We think that at the very least, the Tribunal must be persuaded that there is some possibility that the disclosure sought could assist it in resolving the issues before it in the substantive application. The Tribunal is not so persuaded in this case. The matters around which disclosure is sought, while they may be arguably relevant to the underlying issue which is concerning the Applicant, that is, whether the funds of the AIG Plan can or must be preserved for the exclusive benefit of members and retired members of that Plan notwithstanding the proposed plan merger and asset transfer described above, are too remote from the much narrower issue with which the Tribunal can deal on this application. Furthermore, a winding up application is not the preferred place to investigate these worries. Under s.81(4) of the *PBA*, “[n]o transfer of assets may be made from the pension fund of the original pension plan to the pension fund of the new pension plan without the prior consent of the Superintendent...”. By s. 81(5), “[t]he Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members and former members of the original pension

plan...”. These sections indicate that it is at the stage where the transfer of assets is being considered for approval that there is the widest scope for enquiry into the principal concerns of the Applicant. That is where such enquiry should take place.

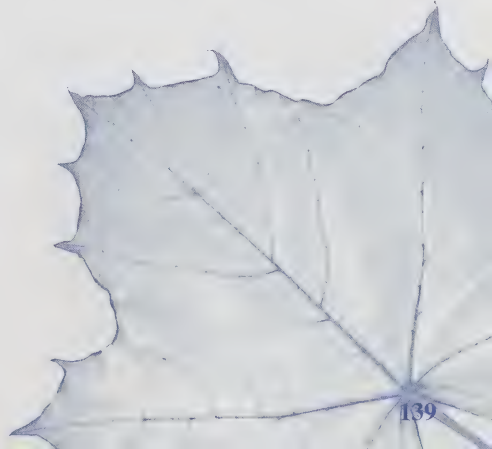
For these reasons, the Tribunal has dismissed the application for disclosure.

DATED the 6th day of June, 2005.

Ralph E. Scane,
Member of the Tribunal and Chair of the
Panel

Martin Brown,
Member of the Tribunal and of the Panel

Louis Erlichman,
Member of the Tribunal and of the Panel



INDEX NO.: FST File No. P0235-2004
Decision No. P0235-2004-01

PLAN: The Electrical Industry of Ottawa Pension Plan
Registration Number 0586396 (the "Plan")

DATE OF DECISION: July 11, 2005

PUBLISHED: Bulletin 14/3 and FST website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c.P.8, as amended ("the Act");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services
to Refuse to Make an Order under section
87 of the *Act* respecting a request by Mr.
Hugo Jaik relating to the Electrical Industry
of Ottawa Pension Plan, Registration No.
0586396 (the "Plan");

AND IN THE MATTER OF a Hearing in
accordance with subsection 89(8) of the *Act*.

BETWEEN:
HUGO JAIK
Applicant

-and-

**SUPERINTENDENT OF FINANCIAL
SERVICES** and
**THE BOARD OF TRUSTEES OF THE
ELECTRICAL INDUSTRY OF OTTAWA
PENSION PLAN**
Respondents

BEFORE:

Ms. Anne Corbett
Vice Chair of the Tribunal and Chair of
the Panel

Ms. Heather Gavin
Member of the Tribunal and of the Panel

Mr. John Solursh
Vice Chair of the Tribunal and Member of
the Panel

APPEARANCES:

Mr. Hugo Jaik – Self Represented

For the Superintendent of Financial Services
Ms. Deborah McPhail

**For the Board of Trustees of the Electrical
Industry of Ottawa Pension Plan**
Mr. Doug Parsons, Agent

HEARING DATE:
January 24, 2005

Reasons for decision
Nature of the Application:

This hearing results from the Notice of Proposal of the Deputy Superintendent, Pension Division to refuse to make an Order:

- (a) requiring the Board of Trustees of the Electrical Industry of Ottawa Pension Plan (the "Board") to recalculate the pension benefits of members, and specifically to recalculate Mr. Jaik's pension benefit; and
- (b) requiring the composition of the Board be amended to comply with the terms of the Plan in declaring that the decisions of the Board improperly constituted are invalid.

Facts:

Hugo Jaik is a former member of the Plan.

The Plan is a defined benefit pension plan that is administered by the Board of Trustees of the Electrical Industry of Ottawa Pension Plan and that covers members of the International Brotherhood of Electrical Workers, Local 586 (the "Union").

Mr. Jaik has been a member of the International Brotherhood of Electrical Workers, Local 586 since 1974. Mr. Jaik is 69 years of age and he is currently receiving a pension from the Plan.

The Plan is a non-contributory pension plan. Contributions are limited to employer contributions as negotiated under collective agreements between the Union and various employers.

The Plan was restated as of January 1, 1994. Prior to 1994, the Plan operated

as a "Brotherhood System". Under the "Brotherhood System" all members received the same pension credits regardless of hours worked.

Amendment No. 5, to the 1994 Plan restatement, was passed by the Board on February 8, 2001. This amendment continues the "Brotherhood System" for pension accrual for hours worked prior to January 1, 1994 and provides for pension accrual based on the "Quasi-Hour Bank System" for service on or after January 1, 1994. The "Quasi Hour Bank System" provides members with accrued pension credits based on the number of hours worked. The Quasi-Hour Bank System is based on 1,500 working hours.

The formula in Amendment No. 5, which is the current Plan text, provides:

11 AMOUNT OF PENSION

11.1 Pension Credits

11.1.1 Service Prior to January 1, 1994

Each Member who retires at the Normal Retirement Date shall be entitled to a Retirement Pension calculated as:

- a) where Retirement occurs after January 1, 1988, but prior to July 1, 1988 - \$30 per month per year of Credited Service up to December 31, 1982, plus \$35.00 per month per year of Credited Service after December 31, 1982, or
- b) where Retirement occurs after June 30, 1988 - \$35.00 per month per year of Credited Service up to June 30, 1988, plus \$40.00 per month per year of Credited Service after June 30, 1988, up

to December 31, 1993.

In addition, all active members who received pension credits for the month of December 1993 will receive a 5% increase on all Pension credits accumulated prior to January 1, 1994. All inactive and retired members who receive pension credits for the month of December 1993 will receive an increase not to exceed the lesser of 3% or the increase in the Consumer Price Index, on all Pension credits accumulated prior to January 1, 1994.

11.1.2 Service After December 31, 1993

(a) Members who retired, terminated or died prior to January 1, 1999

Members who are classified as "Hourly Workers" will receive a Pension credit of \$0.05 per month per hour worked after December 31, 1993.

Members who are classified as "Flat Rate Contributors" will receive a Pension credit of \$40.00 per month per year of Credited Service after December 31, 1993 up to June 30, 1994, and \$62.50 per month per year of Credited Service after June 30, 1994 but prior to January 1, 1999.

(b) Members who retired, terminated or died after December 31, 1998

Members who are classified as "Flat Rate Contributors" will receive a Pension credit of \$42.40 per month per year of Credited Service after December 31, 1993 up to June 30,

1994, and \$66.25 per month per year of Credited Service from July 1, 1994 to December 31, 1998 and \$81.25 per month per year of Credited Service after December 31, 1998.

11.1.3 Adjustment to Pension in Pay

All retirees in receipt of a pension from the Plan as of December 31, 1998, will receive an increase not to exceed the lesser of 6% or the increase in the Consumer Price Index, effective January 1, 1999.

Issue:

At a pre-hearing conference held May 25, 2004, the parties agreed that the issue to be put before the tribunal was to be framed as follows:

Have the Applicant's pension benefits and ancillary benefits under the Plan been properly calculated? If not, what remedy should be granted by the Tribunal? Is the Applicant entitled to his legal costs?

The Notice of Proposal issued by the Deputy Superintendent also dealt with an issue raised by Mr. Jaik that the Board had not been properly constituted and that its actions were unauthorized. While that issue was not listed as an agreed issue it was raised in argument by Mr. Jaik and will be dealt with in these reasons for decision.

Analysis and Conclusion:

Mr. Jaik raised a number of arguments in support of his submission that his pension has

not been properly calculated. In particular, he states that:

- the Plan was not a "Brotherhood Pension Plan" from the inception of the plan – he cites his yearly statements prior to 1998 from the Plan administrator, Coughlin & Associates in support of this
- the Plan was not a multi-employer pension plan under the *Pension Benefits Act* as the employers were affiliated within the meaning of the *Business Corporations Act*
- the Plan was not a defined contribution benefit plan as contributions are based on hourly amounts of money the members earn working including overtime
- in January 1991, the Union took a vote to implement the Brotherhood System
- contributions the employer made to the Plan from the members were tax exempt and the amount of the contributions was used to off-set RRSP contributions for that year – Mr. Jaik questioned how the Board can take contributions from members who are working and give it to the unemployed members as the credit belongs to the members who are working
- the Board of Trustees are in contravention of Section 14(1) of the *Pension Benefits Act* as they cannot reduce benefits because the plan is not a multi-employer plan
- contributions to the Plan are not limited to a fixed amount. For every hour the member is working, including overtime, the employer places contributions into the Plan – it is not a fixed amount

In response to Mr. Jaik's arguments, the Board and the Superintendent submit that the Plan, while not explicitly described as a Brotherhood Pension Plan operated as such prior to 1994. Funding received on behalf of working members was used to also provide pensionable service to non-working members as long as they remained in good standing with Local 586.

The Board also submits that the Plan has at all times been a multi-employer plan. The participating employers are independently owned companies. At one time there were over 200 different participating employers. There are now approximately 86.

In response to the argument that Mr. Jaik has raised that the Plan is not a defined contribution plan, the Board and the Superintendent contends that the contributions were indeed based on the number of hours the member worked, including overtime, however the pension credits earned prior to 1994 were assigned using a flat benefit formula which applied to both active and non-active members who met the eligibility criteria.

In response to Mr. Jaik's submission that the Board is in contravention of Section 14(1) of the *Pension Benefits Act*, the Board and the Superintendent submit that benefits accrued and vested prior to January 1, 1994 were not reduced and none of the relevant amendments reduced the pension benefits or ancillary benefits on a retroactive basis.

In response to Mr. Jaik's position that the contributions are not a fixed amount, the Board states that the hourly contribution rates are defined and fixed. The fact that a varying

number of hours will be reported for each member does not mean that the Brotherhood credits were not a fixed amount or the hourly contribution rate was not a fixed amount. The Board and the Superintendent's position is that the Applicant's pension and disability benefits have been properly calculated and that none of the Applicant's other allegations establish a contravention of the Act or the Plan.

Conclusions:

While there were a number of issues raised in the submissions of the Applicant, which were responded to by the Board and the Superintendent, the issue before the Tribunal was the correct calculations of Mr. Jaik's pension.

With respect to that issue, the Tribunal finds that Mr. Jaik's pension has been correctly calculated in accordance with the applicable plan provisions: Articles 11.1.1(b) and 11.1.2(a) as set out in Amendment No. 5 to the 1994 Plan text. The formula is \$35.00 per month per year of Credited Service up to June 30, 1998, \$40.00 per month per year of Credited Service up to December 31, 1993, and \$0.05 per month per hour worked after December 31, 1993.

In both his written submissions and in his oral argument, Mr. Jaik made reference to a defined contribution benefit based on 2% of the contributions submitted to the Plan on his behalf. There is no such formula in the Plan text. Mr. Jaik's only support for his contention that he was entitled to a pension based on a 2% formula was those provisions of the Plan that set out the maximum pension allowable under the *Income Tax Act*. These sections of the Plan text do not provide a benefit formula but provide a limitation on the pension that can be paid. The calculation of the pension is

done in accordance with sections of the Plan set out above.

With respect to the arguments raised by Mr. Jaik in support of his position that his pension has not been correctly calculated, we did not find any evidence which would support his submissions. In particular, there was no evidence that the Plan was not, as it appears to be on its face, a multi-employer pension plan or that the Board of Trustees was not properly constituted.

With respect to the submission that the Plan was not a Brotherhood Plan from inception, the Tribunal accepts the arguments of the Board and the Superintendent in this regard. The Plan was a Brotherhood Plan from inception until January 1, 1994. Members did not have to be working in order to accrue pension benefits. The only requirements were that a member of the Plan be a member of the Union and be ready, willing and able to work in the industry.

We do not find any contravention of the requirement of Section 14(1) of the *Pension Benefits Act* with respect to the amendments to the Plan that were submitted to us relevant to the arguments before the Tribunal. None of those amendments reduced the pension benefits or ancillary benefits on a retroactive basis.

Decision:

The Tribunal confirms the Notice of Proposal of the Superintendent that the Board of Trustees not be required to recalculate the pension and benefits of Mr. Jaik or to amend the composition of the Board.

Costs:

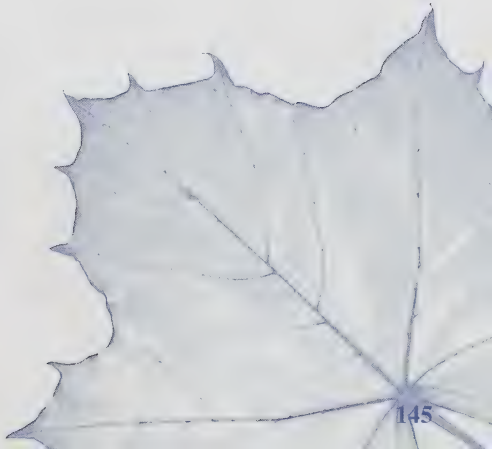
If any party wishes to make application for an order of costs in this matter, it may do so by written request filed with the Tribunal and served on the other parties within 30 days of this decision. The other parties shall have 14 days to file and serve written responses to any such request.

DATED at the City of Toronto this 11th day of July, 2005.

Anne Corbett,
Vice Chair of the Tribunal and Member of the Panel

Heather Gavin,
Member of the Tribunal and of the Panel

John Solursh,
Vice Chair of the Tribunal and Member of the Panel



INDEX NO.: FST File No. P0245-2004
Decision No. P0245-2004-2

PLAN: AIG Assurance Canada Pension Plan for Salaried Employees
Registration Number 0284604 (the "Plan")

DATE OF DECISION: September 6, 2005

PUBLISHED: Bulletin 14/3 and FST website

(Note: Only FST decisions pertaining to pensions are included in this section.)
(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c.P.8, as amended by the *Financial*
Services Commission of Ontario Act, 1997, S.O.
1997, c.28 (the "Act");

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
under section 89(5) of the *Act*, to Refuse to
Make an Order pursuant to section 69 of
the *Act*, respecting the Pension Plan for AIG
Assurance Canada Pension Plan for Salaried
Employees, Registration Number 0284604 (the
"Plan");

AND IN THE MATTER OF a Hearing in
accordance with subsection 89(8) of the *Act*;

BETWEEN:

MARY SUTTON
Applicant

-and-

SUPERINTENDENT OF FINANCIAL
SERVICES and
AIG ASSURANCE CANADA
Respondents

BEFORE:

Mr. Ralph Scane
Member of the Tribunal and Chair of the
Panel

Mr. Louis Erlichman
Member of the Tribunal and of the Panel

Mr. Martin Brown
Member of the Tribunal and of the Panel

APPEARANCES:

For Mary Sutton
Ms Susan Philpott

For the Superintendent of Financial Services
Ms Deborah McPhail

For AIG Assurance Canada
Mr. Mahmud Jamal
Ms Anna Zalewski

HEARING DATE:
June 27 – 28, 2005

REASONS FOR DECISION

This is a decision upon a Request for Hearing filed by the Applicant Mary Sutton pursuant to s. 89 (8) of the *Pension Benefits Act*, R.S.O. 1990 c. P. 8, as amended (the *PBA*). The Request arises from a Notice of Proposal (NOP) issued by the Deputy Superintendent of Financial Services, Pensions (the Superintendent) proposing to refuse to make an order for a full winding up of a certain pension plan, pursuant to s. 69 (1) (a) of the *PBA*.

Background

The Plan involved is the AIG Assurance Canada Pension Plan for Salaried Employees (the AIG Plan). Originally, this was the Norwich Union Life Insurance Company Pension Plan for Salaried Employees. The Plan name was changed on May 1, 2001, when the company name was changed to AIG Assurance Canada (AIG) following a change of share control. The Plan is a defined benefit plan. AIG is the Plan sponsor and administrator. Mary Sutton, (the Applicant) is a member of the AIG Plan. As of May 1, 2001, there was an actuarial surplus in the AIG Plan.

On May 1, 2001, AIG became a participating employer under the Commerce and Industry Insurance Company of Canada Pension Plan (the Commerce Plan) sponsored by an affiliate of AIG. All members of the AIG Plan ceased to participate in that Plan with respect to future services after May 1, 2001. For those future services, they became members of the Commerce Plan, which is a defined contribution plan. AIG has applied to convert the AIG Plan to a defined contribution plan. Members of the AIG plan have been offered

elections either to convert their accrued benefits to defined contribution benefits or have them provided for by purchases of annuities. AIG filed a conversion report with the Superintendent on September 19, 2002. We have been advised that the Financial Services Commission of Ontario (FSCO) has approved the conversion in principle, but that final approval of the related conversion amendments is being held in abeyance pending resolution of the merger application referred to below.

On October 25, 2002, AIG applied to merge the AIG Plan with the Commerce Plan, and in that application seeks to transfer all assets from the AIG Plan to the Commerce Plan.

In documents prepared for the Pre-Hearing Conference in this matter by Counsel for AIG, it was disclosed that, since May 1, 2001, funds had been transferred periodically from the AIG Plan to the Commerce Plan to fund the defined contribution benefits of the former AIG Plan members participating in the Commerce Plan, without the permission of the Superintendent. Solicitors for AIG advised FSCO of this in June, 2004. FSCO requested the voluntary return of the assets so transferred.

Subsequently, shortly before this hearing commenced, AIG disclosed that it was proposing to deal with the problem of the improperly transferred assets by applying to amend the AIG and Commerce Plans to permit transferring the assets and liabilities of the individual accounts of the members of the Commerce Plan who were former members of the AIG Plan back to the AIG Plan. These accounts would then continue to accrue defined contribution benefits in the

AIG Plan. The intention is to continue such arrangement until such time (if at all) as the merger of the AIG and Commerce Plans and the accompanying transfer of assets to the Commerce Plan is approved.

Discussion

The Applicant's claim for a wind-up of the AIG Plan is founded on S. 69 (1) (a) of the *PBA*, which reads:

69. (1) The Superintendent by order may require the wind up of a pension plan in whole or in part if,

(a) there is a cessation or suspension of employer contributions to the pension fund.

Paragraph 6 of the Agreed Statement of Facts states that AIG "has made no contribution to the Plan between May 1, 2001 and the present". Accordingly, we find that the factual basis for invoking s. 69 (1) (a) is established.

The Respondents argue that s. 69 (1) (a) does not apply to permit or require a wind-up here because of s. 81(1) of the *PBA*. That section reads:

81. (1) Where a pension plan is established by an employer to be a successor to an existing pension plan and the employer ceases to make contributions to the original pension plan, the original pension plan shall be deemed not to be wound up and the new pension plan shall be deemed to be a continuation of the original pension plan.

The Respondents argued that s. 81 (1) carves out an exception to the operation of s. 69 of the *PBA*, or, putting the matter another way, AIG argued that the Superintendent has no jurisdiction to make an order under s.69 (1) (a) because of the deeming provisions in s.81 (1), where, as here, the factual situation referred to in s. 81 (1) (a) exists. It was argued that the decision in *Re Otis Canada, Inc. and Superintendent of Pensions of Ontario et al*, (1992), 89 D.L.R. (4th) 746 (Div. Ct.) could be distinguished because the winding up application in *Otis* was made under s.68 of the *PBA*, not s.69. Section 68 deals with a winding up by an employer. An employer is entitled to initiate a winding-up at will. Section 69, which deals with a winding up initiated by the Superintendent, generally deals with cases where employees are losing rights or employment, or their jobs will no longer be covered by a plan. The Superintendent may act only when conditions set out in one of the subsections are met.

The original appeal in *Otis* was from a refusal to approve a winding up report pursuant to s.70 (5) of the *PBA*. The Superintendent had refused to approve the report on the ground that the employer had established a successor plan to its existing plan, and that therefore what is now s. 81(1) of the *PBA* deemed the plan not to be wound up. The Pension Commission of Ontario (PCO) upheld the Superintendent's decision (Pension Bulletin Vol. 1, Issue 1, February 1990, p.16). The Divisional Court reversed the PCO decision. In considering s.81 (1), the Court said (at p. 751 D.L.R.),

[T]he effect of the applicability of s. 81(1) is not to preclude the approval of the wind-up report. This provision is not relevant per se to the issue of winding

-up. Section 81(1) contemplates that a "predecessor" plan can be wound up in fact, but as a legal fiction be deemed to continue to exist, thus providing further protection to the members of the former plan. Even though wound up, it is for all purposes to be treated as a continuing plan. In other words, where the circumstances are such that a winding-up of the Plan is appropriate under the relevant provisions of the Act then the approval to the winding up should be granted. Section 81(1) is not relevant to that issue.

The language of the Court in *Otis* is broad. The Court did not address the differences between s.68 and s.69. It did not need to. The basis for the initiation of the winding-up process was not in issue. Section 70 of the PBA applies to all windings-up, full or partial, and would apply to a winding-up under either s.68 or s.69. The Court was deciding that s.81 (1) in itself would not justify a refusal to approve a wind-up report under s.70 (5). Accordingly, as no other ground for refusing to accept the report was claimed in that case, the winding up should proceed. We cannot see any basis for believing that the Court would have come to a different conclusion had the wind-up been initiated under s.69, and s.81 (1) had been invoked as the only ground for refusing approval of the wind-up report. We are bound by this decision, and therefore conclude that s.81 (1) does not deprive the Superintendent of jurisdiction to order a wind-up under any of the subsections of s.69, in cases where the factual situation described in s.81 (1) exists.

The issue here is whether the jurisdiction to order a wind-up under s. 69 (1) (a) of the PBA should be exercised. It is clear

from the opening words of s. 69 (1), "[t]he Superintendent by order *may* require the wind-up of a pension plan....", that the mere fact that a factual situation described in one of the subsections of s. 69 has occurred does not oblige the Superintendent to act. The question arises whether the occurrence of one of the enumerated factual situations in s. 69 creates a presumption in favour of ordering a wind-up, imposing an onus upon the Superintendent to justify a refusal to do so. We conclude that the section does no more than confer jurisdiction to act upon the Superintendent when one of the listed factual situations occurs, and possibly to impose a duty to consider whether to exercise that jurisdiction. We do not need to decide here whether such a duty exists, as, if it does, it has been exercised. If it were intended that the Superintendent *should* wind up a plan in such circumstances unless he or she could show cause for not doing so, stronger language than the merely permissive *may* would be required. There may be cases where the circumstances so strongly point to the desirability of a wind-up that the evidentiary burden shifts to the Superintendent or others opposing a wind-up to show a factual basis for justifying refusal, but that is a different matter from a statutory presumption in favour of a winding-up. We believe that statements in the decision of the Pension Commission of Ontario in *Imperial Oil Limited and Superintendent of Pensions*, (May 27, 1996), Commission Bulletin Vol.6, Issue 4 (Ont. Pension Commission) which appear to differ from our conclusion that s.69 (1) of the PBA merely confers jurisdiction are simply an example of such a shift in the evidentiary burden.

The Applicant alleges that the purpose of the intended merger is to enable AIG to employ the surplus in the original plan to

take contribution holidays from its obligations to contribute to the individual accounts of the members of the merged plan, including members who were not members of the AIG Plan. She points to the fact that, since the change of control of what was formerly Norwich Union, AIG has taken contribution holidays with respect to the Plan, and has discontinued applying any of the current surplus in enhancing the benefits payable under the Plan to account for inflation, as the former management had done regularly.

Accepting the above recital as true, either as proved or, in the case of AIG's alleged future intentions, for the sake of the argument, does the above make a case for the wind-up of this Plan at this time?

The "cessation or suspension of employer contributions to the pension fund" which is the basis for this application for a wind-up occurred as a portion of an intended process which would convert the Plan to a defined contribution plan and then merge it by a transfer of its assets to another defined contribution plan which also serves other entities in the AIG corporate family. The employment of the Plan members in the company continues, and their pension benefits continue to accrue, but on a different basis for establishing their entitlements at retirement. Generally, s.69 of the *PBA* gives jurisdiction to wind up to the Superintendent when the continuation of employment of the members and/or their ability to continue to accrue a pension with the employer appears to be in jeopardy. There is no evidence that the employment of the members or their continuance in their pension plan here is at risk. The cessation of contributions which provides the basis for the Superintendent's

jurisdiction to order a wind-up in this case occurred only as a step in the intended process of conversion and merger. It did not signal danger to the expectations of the Plan members for continuing employment with the company or for a retirement pension. In these circumstances, we hold that the "cessation ...of employer contributions" did not call for a wind-up of the AIG Plan.

We believe that this approach to s.69 of the *PBA* is supported by the approach taken by the Ontario Court of Justice (General Division) in *Charles v. Canada (Attorney General)*, (1996), 14 C.C.P.B. 98. In that case, provincially appointed judges were transferred by the Province of Ontario from the Public Service Superannuation Plan to a new plan for provincially appointed judges. It was argued that this transfer constituted a partial wind-up of the Public Service Superannuation Plan pursuant to s. 26 (1) of the *PBA*, R.S.O. 1980, c. 373. The Court held that the Section was framed in the context of a termination of employment. Ground J. commented (at p.103)

The protection provided by Section 26 is unnecessary in the circumstances of this case where the provincial judges did not lose their jobs or change employers; only their pension plan was changed while their employment and employer did not change. It is difficult to envisage why, in these circumstances, provincial judges would be entitled to the same election rights as employees who lose their jobs as a result of the closing, sale or amalgamation of their employer. Those are the employees who require statutory protection and the consequent rights to election.

The Court therefore held that the transfer from plan to plan did not constitute a partial winding up of the former Plan, and did not trigger elections under s. 26 of the R.S.O.1980 version of the *PBA*.

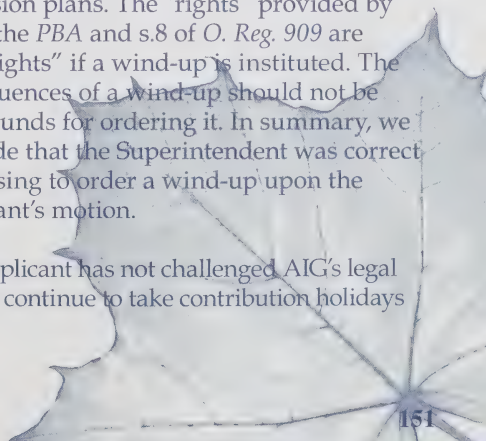
The Applicant also argues that a wind-up in this case would have conferred benefits upon Plan members which would be denied to them if the wind-up does not proceed. These are the grow-in benefits under s. 74 of the *PBA*, and what the Applicant describes in her submission as "surplus rights" under s.8 of *Regulation 909*, now O.Reg. 350/02, as amended, made under the *PBA*.

To order a wind-up in order to secure grow-in rights for plan members, which rights are designed to protect plan members who will be adversely affected by the wind-up or partial wind-up of their plan, seems to be internally contradictory. This appears especially so where those members are continuing their employment and continuing to accrue retirement benefits under a successor plan created by their employer, with service credits accumulated under the former plan being carried forward into the successor plan. The "surplus rights" afforded by s.8 of *Regulation 909* are indeed valuable to employees in a wind-up situation as they impose restrictions upon payment to the employer of any surplus that might be found to exist at the time of the wind-up, even if the employer is entitled under the terms of the plan to the beneficial ownership of any surplus funds which might exist at that time. The Section does not transfer to plan members or retired members any beneficial interest in such funds that they would not have under the plan or trust terms, but in practice, it supplies them with a negotiating

weapon in bargaining with employers for a share in any surplus. Again, we believe this bargaining tool was afforded to plan members to give them additional protection against jeopardization of their retirement provision in situations where their ongoing employment and/or ability to continue in a pension plan is at risk. It also discourages employers from winding up their company pension plan simply to remove surplus.

We believe that the fact that there might be immediate beneficial consequences to an employer or to employees resulting from a declaration of a wind-up does not require the Superintendent to order a wind-up every time he or she has jurisdiction to do so under the *PBA*. Otherwise, the discretion apparently conferred upon the Superintendent by s. 69 would in practice be removed in most cases. In general, the Superintendent should be exercising his or her discretion in such a way as to best promote the policy of ensuring, to the extent possible under the *PBA*, that employees under pension plans will be able to enjoy their anticipated benefits upon retirement. In so concluding, we do not believe that we are in any way retreating from the line of cases which has established that the Superintendent, and this Tribunal, must jealously protect the rights of members of pension plans. The "rights" provided by s.74 of the *PBA* and s.8 of *O. Reg. 909* are only "rights" if a wind-up is instituted. The consequences of a wind-up should not be the grounds for ordering it. In summary, we conclude that the Superintendent was correct in refusing to order a wind-up upon the Applicant's motion.

The Applicant has not challenged AIG's legal right to continue to take contribution holidays



in an ongoing plan, or to make the conversion from a defined benefit plan to a defined contribution plan. Rather, she has argued that it is necessary for the Superintendent to wind up the plan to protect members' potential rights to surplus should the conversion and transfer of assets be approved. We are in no position to rule on either the transfer of assets issue or the "ownership of surplus" question, as the Superintendent has not formally ruled on these questions, and these issues were not argued in this proceeding. To accept the Applicant's position, however, would essentially read into the *PBA* the requirement that the Superintendent wind up any plan in which there is a surplus and a conversion is proposed. This would require a greater indication of legislative intent than we have found.

We wish to advert briefly to the evidence tendered by AIG regarding the very recent applications to amend the relevant plans to return the former members of the AIG Plan to that Plan, at least temporarily. The Applicant objected to evidence of these proposed amendments being introduced on this appeal. As we are deciding this appeal adversely to the Applicant's position without reference to this evidence, we need not rule on its admissibility in these proceedings. However, we will go so far as to say that we believe that, had we found that, at the time the Applicant applied for a wind-up order, the Superintendent should have granted it, the proposed amendments would not have been allowed to affect our decision. Not only is it not certain that the Respondent AIG would not have changed its mind and withdrawn the proposed amendments, but, even with the most solemn undertakings, as a matter of policy, the Superintendent, the Tribunal and the courts should not have to deal with

a moving factual background in carrying out their supervisory roles. Parties should be discouraged from keeping their best positions in reserve in their applications for approval of changes to pension plans. We do not suggest that this is what happened here, but the policy should apply generally except in most unusual circumstances.

Costs

Counsel made oral submissions with respect to costs at the close of the hearing. The Respondent Superintendent did not seek costs. The Applicant and the Respondent AIG each submitted that aspects of the conduct of the other in these proceedings justified an award of costs in their favour. We see no value in elaborating upon these submissions. It was plain to us that the course of these proceedings had given rise to an unhappy (and hopefully, short-lived) reciprocal exasperation as between these parties. From our viewpoint, we were very well served by all counsel, and the alleged transgressions of any of the parties fell far short of meeting the criteria for awarding costs against a party set out in Rule 45 of the Tribunal's *Rules of Practice and Procedure*. There will be no order as to costs.

Disposition

We order the Superintendent to carry out the proposal contained in his Notice of Proposal dated October 22, 2004 and refuse to wind up the AIG Plan under s. 69 (1) (a) of the *PBA*.



DATED the 6th day of September, 2005.

Ralph E. Scane,
Member of the Tribunal and Chair of the
Panel

Martin Brown,
Member of the Tribunal and of the Panel

Louis Erlichman
Member of the Tribunal and of the Panel



INDEX NO.: FST File No. P0235-2004
Decision No. P0235-2004-2

PLAN: The Electrical Industry of Ottawa Pension Plan
Registration Number 0586396 (the "Plan")

DATE OF DECISION: September 30, 2005

PUBLISHED: Bulletin 14/3 and FST website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the *Pensions Benefits Act*, 1990, c.P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Refuse to Make an Order under section of 87 of the *Act* respecting a request by Mr. Hugo Jaik relating to the Electrical Industry of Ottawa Pension Plan, Registration No. 0586396 (the "Plan");

AND IN THE MATTER OF a Request for Review of the Order of the Tribunal in this matter dated July 11, 2005.

BETWEEN:

HUGO JAIK
Applicant

- and -

SUPERINTENDENT OF FINANCIAL SERVICES and THE BOARD OF TRUSTEES OF THE ELECTRICAL INDUSTRY OF OTTAWA PENSION PLAN
Respondents

BEFORE:

Ms. Anne Corbett
Vice Chair of the Tribunal and Chair of the Panel

Ms. Heather Gavin
Member of the Tribunal and of the Panel

Mr. John Solursh
Vice Chair of the Tribunal and Member of the Panel

WRITTEN SUBMISSIONS:

Mr. Hugo Jaik
Self-Represented

For the Superintendent of Financial Services
Ms. Deborah McPhail

REASONS FOR DECISION

Nature of the Request:

The Applicant, Hugo Jaik has requested the panel to reconsider its order it made in this matter dated July 11, 2005 (the "Order") in accordance with Part XI of the *Rules of*



Practices and Procedure for Proceedings before the Financial Services Tribunal, dated August 1, 2004 (the "Rules").

Written Material Filed:

The Panel's consideration of the Applicant's Request for Review of the Order was conducted in writing pursuant to Rule 51.

In support of his request for this panel to review the Order Mr. Jaik filed with the Tribunal:

- (a) a letter dated July 22, 2005 from him requesting a reconsideration of the Tribunal's decision in this matter;
- (b) a letter dated July 25, 2005 from him providing more information in accordance with a discussion Mr. Jaik had with the Registrar of the Tribunal regarding the requirement of the Rules; and
- (c) a letter dated July 29, 2005 from him in setting out more information for purposes of complying with the Rules.

The Superintendent of Financial Institutions filed with the Tribunal a written submission dated August 8, 2005 in response to the Applicant's Request for Review which sets out the Superintendent's position that the Request for Review of the Order should be dismissed.

Timeliness of Applicant's Request for Review:

The Applicant's Request for Review under the Rules was filed a few days later than the 10 day time period specified in Rule 49.04. His

submissions set out his reasons for the late filing. The Superintendent has not objected to the late filing. Accordingly, we agreed to consider Mr. Jaik's Request for Review pursuant to Rule 49.02.

Analysis and Conclusions:

Rule 50.01 provides that in deciding whether it is advisable to review all or part of an order, a panel of the Tribunal may consider "any relevant circumstances, including:

- (a) whether there is a material error of law or fact such that the panel or member would likely have reached a different decision but for that error;
- (b) the extent to which any party or any other person has relied on the order;
- (c) whether the order is under appeal or is the subject of a judicial review application; and
- (d) whether the public interest in finality of orders is outweighed by the prejudice to the requester."

We have considered, in the context of our Order and Rule 50.01, the material filed by the Applicant in support of this application for review as well as the submissions of the Superintendent. We also have taken into account the material filed on or before the hearing of the matter on January 24, 2005.

We have concluded that the material filed by the Applicant does not identify any relevant circumstances including a material error of law or fact such that the panel would likely have reached a different decision but for such error.

More specifically, there is nothing in the filed material that would lead us to conclude that any further review of the Order should be undertaken or that any further review would lead us to a different decision than the decision reflected in the Order.

Decision:

The Applicant's Request for Review is denied and the July 11, 2005 Order of this panel is confirmed.

DATED at the City of Toronto this 30th day of September, 2005.

Anne Corbett,
Vice Chair of the Tribunal and Member of the Panel

Heather Gavin,
Member of the Tribunal and of the Panel

John Solursh,
Vice Chair of the Tribunal and Member of the Panel



INDEX NO.: FST File No. P0246-2004
Decision No. P0246-2004-1

PLAN: Ontario Public Service Employees' Union Pension Plan
Registration Number 1012046 (the "Plan")

DATE OF DECISION: September 30, 2005

PUBLISHED: Bulletin 14/3 and FST website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the Pension Benefits Act, R.S.O. 1990, c. P.8 as amended by the Financial Services Commission of Ontario Act, 1997, c. 28 (the "Act");

Member of the Tribunal and of the Panel

APPEARANCES:

Mr. Julian Paul
Appearing on his own behalf

AND IN THE MATTER OF a Hearing in accordance with subsection 89(8) of the Act.

For the Superintendent of Financial Services
Mr. Mark Bailey

BETWEEN:

JULIAN PAUL
Applicant

For the OPSEU Pension Trust
Mr. Ari Kaplan
Ms. Donna Walwyn

- and -

SUPERINTENDENT OF FINANCIAL SERVICES and the OPSEU PENSION TRUST
Respondents

HEARING DATE:
April 27, 2005

BEFORE:

REASONS

Mr. John M. Solursh
Vice Chair of the Tribunal and Chair of the Panel

A. Introduction

Mr. Shiraz Bharmal
Member of the Tribunal and of the Panel

The Applicant, Julian Paul, is a member of the Ontario Public Service Employees' Pension Plan (the "Plan"). The Plan is a defined benefit pension plan covering employees of the Government of Ontario who are represented by the Ontario Public Service Employees Union ("OPSEU"). The Plan is administered by a board of trustees (the "Administrator"). The

Ms. Florence Holden

Applicant also was a member of two plans which are predecessors to the Plan as set out below.

This hearing results from a request made by Mr. Paul to the Financial Services Commission of Ontario ("FSCO"), that he be allowed to purchase certain past service credits in the Plan for the periods of his service prior to April 2, 1979. In response to that request the Superintendent of Financial Services (the "Superintendent") issued a Notice of Proposal dated November 30, 2004 (the "NOP") in which the Superintendent proposed to refuse to make an order directing the Plan to permit the Applicant to purchase (i.e. "Buy Back") the requested past service credits.

The Administrator of the Plan, the OPSEU Pension Trust, filed an application for party status with the Tribunal and was granted full party status at the Pre-hearing Conference on February 24, 2005.

B. Issues

As agreed by the parties, the issues in this matter are:

- (a) should the Applicant be allowed to purchase credit for his identified past service under the provisions of the *Pension Benefits Act*, R.S.O. 1990, c. P.8 (the "PBA") or the terms of the Plan?;
- (b) and if the answer to question (a) is yes, what, if any, remedy should be granted by the Tribunal?

C. Facts

(a) The Old Plan

The parties submitted an Agreed Statement of Facts to the Tribunal, a copy of which is attached as an Appendix to these Reasons.

The Applicant worked with the Ministry of Natural Resources (the "Employer") on a casual basis beginning on July 19, 1976 as a summer student and throughout 1977, 1978 and for the first quarter of 1979 (the "Applicant's Prior Service"). During that period, the Applicant's employment was not continuous and he did not make any contributions to the predecessor plan in place at the time, the Public Service Superannuation Plan (the "Old Plan"). In accordance with the terms of the Old Plan as set out in the *Public Service Superannuation Act*, R.S.O. 1970, c. 387, (the "Old Act"), the Applicant did not receive credit for that service under the Old Plan.

The Applicant began contributing to the Old Plan upon his appointment to classified service on April 2, 1979.

The Applicant was entitled under section 8 of the Old Plan to Buy Back his Prior Service upon giving notice of his intention to purchase Prior Service and paying the cost of the Prior Service into the Public Service Superannuation Fund. Details of the Applicant's Prior Service between July 19, 1976 and April 1, 1979, were set out in reports prepared by the Employer to the Ministry of Government Services (the "MGS"). The MGS was at that time the Administrator of the Old Plan.

The Applicant indicated to the MGS in an application form signed by him on March 27, 1979, that he wished to purchase periods of his recorded non-contributory service occurring prior to his appointment to classified service.

The MGS reviewed the Applicant's periods of non-contributory service based on the Service and Earnings Reports and consistent with the practice at that time, did an assessment and determined the periods of eligible service that the Applicant was qualified to purchase pursuant to the Old Act. The MGS mailed a Notification of Arrears and Agreement to Contribute form (the "Notification") to the Applicant on October 10, 1980, setting out the period of eligible service the Applicant was entitled to purchase.

In order to proceed with the purchase as set out in the Notification, the Applicant was required to complete, sign and return the Notification. The Notification advised, in bold print, that if the MGS did not receive "the completed form within 3 months from the date of mailing" the MGS would treat the request as lapsed. The Applicant did not return the form within the 3 month period and he did not make any other attempt to purchase the Prior Service within the specified period.

The Applicant admitted that he considered the purchase and made the decision not to purchase his Prior Service because his pension was not important to him at that time. In his submissions, the Applicant states, in part, as follows:

...As stated in the Agreed statement of Facts I signed an application to (Buy

Back) my pension when I was first hired on permanent staff in 1979. The reason I did this is not because I was interested in buying back my pension but because the administrator asked me to sign an application...

...I had no interest in buying back my pension between January 1, 1990 and December 31, 1991.

The Applicant was not restricted from making another application to purchase his Prior Service under the Old Plan. However there is no dispute that the Applicant did not purchase his Prior Service under the Old Plan in accordance with section 8 of the Old Act.

(b) The 1989 Plan

On December 31, 1989, the *Public Service Pension Act*, S.O. 1989, c. 73 (the "1989 Act") came into force and the Old Act was repealed effective January 1, 1990. Pursuant to section 3 and section 5 of the 1989 Act, the Old Plan, as contained in the provisions of the Old Act, was continued as the Public Service Pension Plan (the "1989 Plan") and the Public Service Superannuation Fund under the Old Act was continued as the Public Service Pension Fund. The Applicant continued his membership in the 1989 Plan. The terms of the 1989 Plan are set out in Schedule I in the 1989 Act. The 1989 Plan is administered by the Public Service Pension Board (the "Board"). Under section 5(2) of the 1989 Act, the Board was required to administer the 1989 Plan in accordance with the 1989 Act and the terms of the 1989 Plan as set out in Schedule I of the 1989 Act. The Old Act was repealed by the 1989 Act, and thus provisions of the Old Act, including those relating to the "Buy Backs", ceased to apply.

The 1989 Act included a provision which gave members a right (the "Buy Back Window") to exercise the option to purchase any period of eligible non-credited service occurring prior to 1990. Section 11(6) of Schedule I of the 1989 Act provided that individuals who were members on December 31, 1989, had to submit a written application within a period of 24 months after December 31, 1989 to the Administrator of the Plan for the purchase of any past service credit related to service prior to January 1, 1990.

The Applicant, as a member of the 1989 Plan on December 31, 1989 was eligible to exercise the time-limited option to purchase past service credit related to service prior to January 1, 1990 provided he submitted a written application to purchase the Prior Service within the period December 31, 1989 to December 31, 1991, and paid the amount determined by the Administrator.

The Board, as Administrator of the 1989 Plan, used various and extensive means (the "Buy Back Window Communications") of informing 1989 Plan members as of December 31, 1989, of the deadline of December 31, 1991 set out in section 11(6) of Schedule I in the 1989 Act. It published items in the Government of Ontario newsletter, *Topical*, provided a pamphlet for payroll distribution, issued a new member's booklet titled "Your Pension Plan", hosted information sessions and issued "Fact sheets" and an "Administration Guidelines Manual" to advise Plan members of the December 31, 1991 deadline.

The Applicant acknowledges that he did not complete and submit a written application to purchase past service credits for his Prior

Service within 24 months after December 31, 1989, the deadline imposed by section 11(6) of Schedule I in the 1989 Act. The Applicant does not deny having received the Buy Back Window Communications. However, he objected that neither his Employer nor the Plan Administrator sent him a personalized application form as he received 10 years earlier when he had the opportunity to Buy Back the same Prior Service and he made a deliberate decision not to do so.

(c) The OPSEU Plan (the "Plan")

Pursuant to the Sponsorship Agreement between the Government of Ontario and the Ontario Public Service Employees' Union ("OPSEU") and the enactment of the *Public Service Employees' Union Pension Act, 1994*, S.O. 1994, c. 17 (the "OPSEU Pension Plan Act"), the Plan was established and adopted, effective January 1, 1993, primarily for members of the Plan who were employees in a bargaining unit represented by OPSEU, including the Applicant. The Applicant became a member of the Plan on January 1, 1993. Article III of section 3.01 of the Sponsorship Agreement that established the Plan and is referred to in the OPSEU Pension Plan Act provides that the Plan and the OPSEU Trust Fund were established as a successor plan and trust fund to the Public Service Pension Plan and the Public Service Pension Plan Trust Fund.

The Board of Trustees of the OPSEU Trust Fund (the "OPSEU Pension Trust") is the Administrator of the Plan. The OPSEU Pension Trust is a party to this proceeding.

The Applicant is entitled to a pension from the Plan in respect of all of his years of

eligible contributory service in the Ontario Public Service. He has received Annual Pension Statements each year that show only credit that was earned since April 2, 1979.

The terms of the Plan permit the Applicant to purchase his Prior Service, but only if he submitted an application to the Administrator within the Buy Back Window. The Plan does not permit the purchase of the Applicant's Prior Service in the Applicant's present circumstances. In this respect the provisions of the Plan read, in part, as follows:

7.4(1)(b) for a period of service with an employer who contributed to the Fund or a predecessor fund throughout the period, and for which the member has no credit in the Plan and no claim for pension benefits from the Plan;

7.4(6) Any credit referred to in subsection (1) may be purchased only if application therefore is made to the Board in writing within twenty-four months after the latest of,

(a) the earlier of the day on which the member for whom credit is to be purchased became a member of the Plan or the PSPP; and

(b) the last day of the most recent continuous period for which credit is being purchased.

The Applicant has stated that by 1995 his situation had changed and he was interested in a Buy Back of his pension, as he submitted he was also entitled to under the Old Act when he was hired. He further submitted that he began to make enquiries by phone

about a Buy Back, possibly beginning in 1996 or 1997, and that the response was always negative and indicated that the opportunity for buying back was closed.

His written submissions further stated that in September 2001 he saw an Options Update that pushed him to phone the OPSEU Pension Trust again and that a representative of the OPSEU Pension Trust told him he did sign an application which was in his file from 1979 and that he could Buy Back his pension. He further submitted that he did not sign a new application between January 1, 1990 and December 31, 1991 in view of the input from the OPSEU Pension Trust representative that he had an application in his file from 1979, which led him to believe that no new application was needed.

The OPSEU Pension Trust has taken the position that it has no authority under the terms of the Plan or the provisions of the PBA to deviate from the Plan terms in respect of the Applicant or of any other of the employees in the Ontario Public Service who received the Buy Back Window Communications and were eligible to exercise Buy Back rights and who did not exercise those rights under the terms of the Plan.

OPSEU Pension Trust's Adjudication Panel (the "Adjudication Panel") considered the Applicant's position at an oral hearing on February 5, 2003. The Adjudication Panel's decision to deny the Applicant's appeal was rendered on the same day and the Applicant was provided with written reasons for the denial.

The Adjudication Panel concluded that, under the terms of the 1989 Act, the Applicant

was not entitled to purchase credit for the Applicable Period, since "...the opportunity ended on December 31, 1989, with the repeal of that legislation".

The Adjudication Panel further concluded that:

As a Plan Member on December 31, 1989, the Applicant had a time-limited application window of 24 months, under the *Public Service Pension Act, 1989*, during which he could have submitted a second application to the administrator. The Applicant concedes that he did not submit a second application to the administrator. The Applicant concedes that he did not submit a second application, within the requisite deadline.

While it is true that he was not given an application personally to complete, the Management Board Secretariat and later the Ontario Pension Board were aware of this deliberate and significant change to the pension Plan. They published items in the Government of Ontario's newsletter, *topical*, provided a stuffer for payroll distribution and issued a new member's booklet titled, "Your Pension Plan". The administrator made information available to each participating OPS employer, through information sessions and the issuance of "Fact Sheets" and an "Administration Guidelines" manual. Each of these items contained an explanation of the changes that became effective with the creation of the Public Service Pension Plan in 1990.

Based on these conclusions, the Adjudication Panel determined that the Applicant's claim must be denied such that the Applicant was not permitted to purchase credit for his Prior Service.

(d) The Superintendent's Notice of Proposal

On November 20, 2004, the Superintendent of Financial Services (the "Superintendent") issued a Notice of Proposal (the "NOP") to refuse to make an order under section 87(1) of the PBA directing the OPSEU Plan to allow the Applicant to purchase past service credits for his Prior Service in the OPSEU Plan. The NOP states, in part, as follows:

14. The Superintendent of Financial Services (the "Superintendent") can make an order under section 87(1) of the PBA if he is of the opinion, on reasonable and probable ground, that the condition set out in section 87(2)(a) of the PBA exists: i.e. the pension plan or pension fund is not being administered in accordance with the PBA, the *Regulation 909, R.R.O. 1990*, as amended (the "Regulation") or the pension plan.

15. For the reasons set out above, the Superintendent is not of the opinion that the Plan is not being administered in accordance with its terms.

The basis for the NOP is that the Applicant failed to satisfy the conditions necessary for him to purchase past service credits under the terms of the 1989 Act, i.e. the Applicant failed to make a written application within the prescribed time limits and within the

meaning of section 11(6) of the 1989 Act.

The Applicant requested a hearing before the Tribunal in connection with the NOP.

D. Analysis

(a) **First Issue: Can the Applicant Buy Back his Prior Service Under the Plan or Applicable Legislation Including the PBA**

The Applicant's argument is that he is allowed to complete the Buy Back of his Prior Service on the basis either that:

- (i) he had a new Plan membership date in 1989 and then again in 1993 which would bring him new rights to Buy Back his Prior Service; or
- (ii) there is no new Plan membership date and the Plan is just a continuation of the predecessor plans as specified in section 81 of the PBA, and accordingly, his original application in 1979 would suffice to meet the criteria for an application for Buy Back.

We have concluded that the Applicant is not allowed to Buy Back his identified Prior Service under the Plan or applicable legislation.

The Applicant submitted he has a right to Buy Back his Prior Service under the Old Plan as preserved by section 81 of the PBA. That provision states that where a pension plan is established by an employer to be a successor to an existing plan the new pension plan is deemed to be a continuation of the original pension plan and benefits under the original

pension plan in respect of employment before the establishment of the new pension plan shall be deemed to be benefits under the new pension plan.

There is no dispute that the Plan was a successor plan to the 1989 Plan which in turn was a successor to the Old Plan. This result flows from the clear wording of the 1989 Act and the OPSEU Pension Plan Act. Section 81 of the PBA is consistent with the provisions of that more specific legislation.

We do not agree, however, that section 81 of the PBA or the mere fact the 1989 Act provided that the 1989 Plan was a successor to the Old Plan was intended or effective to preserve indefinitely and unamended the terms of and the Old Plan in the 1989 Plan, or in any successor plan thereto such as the Plan. The 1989 Plan was a statutory pension plan which included a specific Buy Back provision available to but not exercised by the Applicant. The intention and effect of the 1989 Act and the 1989 Plan clearly was to provide a time limited Buy Back provision in place of any unexercised Buy Back option that was not exercised under the Old Act. Section 17 of the 1989 Act repealed the Old Act which set out the Old Plan. The 1989 Act established the 1989 Plan as set out in Schedule I to that legislation.

We do not agree that the existence of an unexercised Buy Back option under the Old Plan is a "benefit" continued under section 81 of the PBA in the 1989 Plan. However, even if it were a benefit so continued under the 1989 Plan the combined effect of the 1989 Act and the 1989 Plan was to replace the Buy Back provision in the Old Plan with the time limited Buy Back in the 1989 Plan.

There is no dispute that the terms of the 1989 Plan at the relevant time required the Applicant to apply in writing to purchase the Prior Service during the period December 31, 1989 to December 31, 1991. There also is no dispute that the Applicant did not do so in accordance with section 8 of the Old Act.

The 1989 Plan included a Buy Back Window. That Buy Back Window gave members a deadline to exercise the option to purchase prior non-credited service for periods prior to 1990. The Applicant's Prior Service fell into this category. Specifically, section 11(6) of Schedule I of the 1989 Plan provided that individuals who were members of the Old Plan on December 31, 1989 were eligible to purchase past service credit related to service prior to January 1, 1990 if they submitted a written application to the Board, as Administrator of the 1989 Plan, no later than December 31, 1991.

The Applicant was a member of the Old Plan on December 31, 1989 and in that capacity was eligible to exercise the time-limited option to purchase past service credit related to his Prior Service. The Board through the Buy Back Window Communications applied various and extensive methods to inform members including the Applicant, of the Buy Back Window.

The Applicant does not deny having received the Buy Back Window Communications. He has acknowledged that he did not complete and submit a written application to purchase past service credits for his Prior Service within 24 months after December 31, 1989, the deadline imposed by section 11(6) of Schedule I of the 1989 Plan.

Section 11(1)(b) of Schedule I in the 1989 Act

provides for the purchase of credit in the Plan for any period of service "with an employer who contributed to the Fund [for the Plan] or a predecessor fund throughout the period, and for which the member has no credit in the Plan and no claim for pension benefits from the Plan." Section 11(1)(b) covers the past service periods at issue in this hearing.

Section 11(6) outlines the timing requirements for making a written application to purchase past service under section 11. Section 11(6) states:

- (6) Any credit referred to in subsection (1) may be purchased only if application thereof is made to the Board in writing within twenty-four months after the latest of
 - (a) the day on which the member for whom credit is to be purchased became a member of the Plan;
 - (b) the last day of the most recent continuous period for which credit is being purchased; or
 - (c) the 31st day of December, 1989.

Section 11(6) is unambiguous and mandatory. It states that past service can be purchased "only if" an application in writing is made by the Applicant between December 31, 1989 and December 31, 1991. Section 11(6) does not grant discretion to the Administrator to waive or modify this requirement.

Moreover, section 11(6) does not relieve a member from the obligation to file an application if an application was filed under the Old Act. By virtue of section 17 of the

1989 Act, the Old Act (and any provisions it may have contained concerning applications to Buy Back past service) was repealed. Section 11(1)(b) therefore would not bring any past service periods into the scope of the requirements in section 11(6) unless a member had completed such a Buy Back and already had credit in the Plan for the service at the time of the adoption of the 1989 Act.

The Applicant does not dispute that proposition. He states in his Submissions that, as a result of the changes in the 1989 Act,

...I must go through the same exercise in 1990 or 1991 as I went through in 1979 in order to preserve my rights under the plan. I must sign a new application between January 1, 1990 and December 31, 1991 and submit this to the administrator.

Accordingly, the fact that the Applicant completed an application to Buy Back service in 1979 does not affect the outcome in this case. The important fact is that the Applicant never completed that Buy Back process and therefore the application requirement in section 11(6), which he did not utilize, is applicable.

(b) What Remedy Could be Granted to the Applicant by the Superintendent or this Tribunal Under the PBA

The Applicant argued that the Superintendent under section 87 of the PBA can require the Administrator of the Plan to allow him to Buy Back his identified Prior Service and accordingly that the Tribunal has power under section 89(9) of the PBA and section 20 of the *Financial Services Commission Act*, S.O.

1997, c. 28 (the "FSCO Act") to make such an order.

Section 87 of the PBA permits the Superintendent to make a written order requiring an Administrator or other person to take an action in respect of a pension plan or a pension fund if the Superintendent is of the opinion, upon reasonable and probable grounds, that the pension plan or pension fund is not being administered in accordance with the PBA, the Regulations thereunder or the pension plan. In this case the provisions of the 1989 Act and the Plan have been administered in accordance with their terms and they are not contrary to the PBA or otherwise invalid. The powers of the Superintendent under section 87 of the PBA, the powers of the Tribunal under section 89 of the PBA and section 20 of the FSCO Act and the requirements of section 19(1) of the PBA (which relate to the requirement to administer a plan in accordance with the PBA and the Regulations thereunder) and section 22 of the PBA (which sets out the standard of care owed by plan administrators in connection with the administration of a pension plan or fund) do not come into play.

Accordingly, even if the Tribunal had answered "yes" to the first issue, there is no remedy available to the Applicant with respect to the Plan under the PBA. If the Applicant were permitted to Buy Back the requested service under the Plan, the Administrator of that Plan would be in breach of the Plan provisions and accordingly of its statutory requirement to administer the Plan in accordance with its terms and the PBA.

The Applicant's case has been framed in part on what he claims are defects in the Buy

Back Window Communications materials provided in respect of the application requirement in section 11(6) of Schedule I in the 1989 Act. We do not agree with that submission. The extensive Buy Back Window Communications, as noted above, unambiguously indicated the requirement that a member who wished to Buy Back service occurring prior to 1990 must take steps to do so during the December 31, 1989 to December 31, 1991 period. The Buy Back Window Communications materials provided by the Board do not, as the Applicant asserted, constitute a contravention of section 19 or 22 of the PBA.

The Applicant has further submitted that even if the Buy Back Window Communications materials were clear he was misled by information provided to him by the OPSEU Pension Trust as the Administrator of the Plan. We are not required in view of our conclusions on the first issue to decide what if any remedy can or should be applied by the Tribunal. However, even if there was merit to the Applicant's unproven allegation that he was provided with misleading advice which he submits he chose to rely on notwithstanding the clear written Buy Back Window Communications materials, and the terms of the Plan, including the predecessor plans, we believe that the Tribunal does not have authority under the PBA or the FSCO Act to direct the Administrator of the Plan to permit the Applicant to Buy Back the requested service contrary to the terms of the Plan. We agree with the submission of the Superintendent's counsel that, if the Applicant can establish that the materials were erroneous or he was misled by incorrect advice from a member of the staff of the OPSEU Pension Trust, he is free to try to

establish in a court the factual and legal basis of a valid claim (including reliance to his detriment on the materials or information provided) pursuant to a civil action in the courts seeking compensation for any losses he may have incurred.

E. Conclusion

For the reasons noted above, the Applicant is not permitted to purchase the requested periods of past service and the issue of the appropriate remedy does not arise in this case. The Tribunal confirms the Notice of Proposal of the Superintendent.

F. Costs

If any party wishes to make application for an order of costs in this matter, it may do so by written request filed with the Tribunal and served on the other parties within 30 days of this decision. The other parties shall have 14 days to file and serve written responses to any such request.

DATED at Toronto this 30th day of September, 2005.

John M. Solursh,
Vice Chair of the Tribunal and Chair of the Panel

Shiraz Bharmal,
Member of the Tribunal and of the Panel

Florence Holden,
Member of the Tribunal and of the Panel



APPENDIX

FST File No. P0246-2004

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8 as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c. 28 (the "Act");

AND IN THE MATTER OF a proposal of the Superintendent of Financial Services to Refuse to Make an Order under section 87(1) of the *Pension Benefits Act* respecting the Ontario Public Service Employees' Union Pension Plan, Registration No. 1012046 (the "Plan");

AND IN THE MATTER OF a Hearing in accordance with subsection 89(8) of the *Act*;

BETWEEN:

JULIAN PAUL
Applicant

- and -

SUPERINTENDENT OF FINANCIAL SERVICES
Respondent

AGREED STATEMENT OF FACTS

1. The Applicant worked with the Ministry of Natural Resources (the "Employer") on a casual basis beginning on July 19, 1976 as a summer student and throughout 1977, 1978 and for the first quarter of 1979. During these periods the Applicant's employment was not continuous and he did not make any contributions to the prior plan in existence at that time,

Public Service Superannuation Plan (the "PSPP") as set out in the *Public Service Superannuation Act* R.S.O. 1970, c. 387 as amended (the "Old Act").

2. The Applicant was appointed to classified service on April 2, 1979 and began contributing to the PSPP on that date.
3. The Employer prepares a *Service and Earnings Report* which details the Applicant's non-contributory service between July, 1976 and April 1, 1979. This report was forwarded to the Administrator at that time (the Ministry of Government Services (the "MGS"))
4. The Applicant indicated to the Administrator of the Plan at that time, the MGS, that he wished to purchase the periods of non-contributory service between June 1977 to November 3, 1978 and November 14 to March 2, 1979 with the Ministry of Natural Resources by submitting a Statement and Application Elective Service Arrears form on August 5, 1980 ("Application Form"). The Application Form was signed by the Applicant on March 27, 1979.
5. MGS reviewed the Applicant's periods of non-contributory service based on the Service and Earnings Report provided by the Applicant's employer and consistent with the practice at that time, did an assessment and determined the periods of eligible service that the Applicant was qualified to purchase pursuant to the Old Act, which provided for the purchase of non-credited service. After completing the assessment, MGS mailed a Notification of Arrears and Agreement to Contribute form MGS 565 (the "MGS 565 Form") to the Applicant on October 10, 1980, setting out the period of eligible service the Applicant was entitled to purchase.

6. The MGS 565 form indicated that the Applicant was entitled to purchase 10 months and 4 days of prior non-contributory service between May 29, 1978 and April 1, 1979, for the lump sum cost of \$654.52. In order to proceed with the purchase as set out on the MGS 565 form, the Applicant was required to complete, sign and return the form to the MGS. The MGS 565 Form advised, in bolded print,

"We have not received the completed form within 3 months from the date of mailing, we shall treat your request as lapsed."

The Applicant did not return the MGS 565 Form or make any attempt to purchase this past service within the 3 month time period.

7. On December 31, 1989, the *Public Service Pension Act, 1989 c. 73* (the "New Act") came into force and the Old Act was repealed effective January 1, 1990. The option to purchase prior non-credited service under the Old Act ceased with this repeal, however, the New Act included a provision which gave Plan members a deadline to exercise the option to purchase prior non-credited service for periods prior to 1990. Pursuant to section 11(6) of Schedule I of the New Act, individuals who were Plan members on December 31, 1989, had to submit a written application within 24 months after December 31, 1989 to the Administrator of the Plan for the purchase of any past service credit related to service prior to January 1, 1990.
8. The Applicant was a member on December 31, 1989 and was, therefore, eligible to exercise the time-limited option

to purchase past service credit related to service prior to January 1, 1990.

9. The Administrator used various means of informing Plan members as of December 31, 1989, of the deadline of December 31, 1991. The Administrator published items in the Government of Ontario newsletter, *Topical*, provided a pamphlet for payroll distribution, issued a new member's booklet titled "Your Pension Plan," hosted information sessions and issued "Fact sheets" and "Administration Guidelines Manual" to advise Plan members of the December 31, 1991 deadline.
10. The Applicant did not complete and submit a written application to purchase past service credits for his past service within 24 months after December 31, 1989, the deadline imposed by section 11(6) of Schedule I of the New Act.



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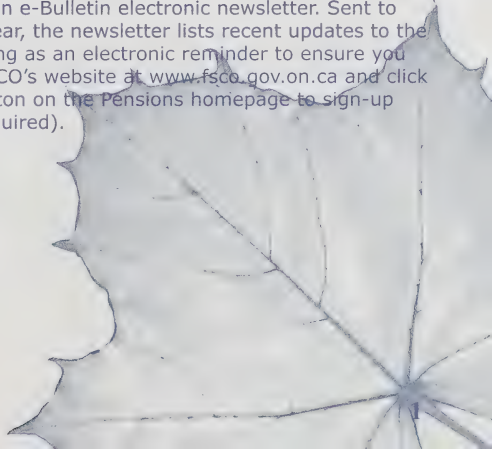
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Update - Vendor of Record Arrangement, Administrator Appointments for Defined Benefit Plans of Insolvent Employers

Pursuant to the announcement in the January 2005 Pension Bulletin (see Volume 14, Issue 1, page 4), FSCO established a new Vendor of Record arrangement for appointing administrators for defined benefit pension plans of insolvent employers. Through the Government of Ontario's Request for Proposals (RFP) process, an invitation for proposals was issued April 1, 2005 through MERX™ to establish the arrangement under which "the services of qualified firms (vendors) who are able to act as administrators of pension plans are available to the Superintendent, at the option of the Superintendent, and on short notice."

After meeting the mandatory requirements and achieving a pre-determined valuation threshold with respect to specific, rated criteria, the following three firms were selected as Vendors of Record, effective August 12, 2005. The Superintendent's agreements with the selected Vendors of Record will expire after four years, at which time the RFP invitational process will be repeated. The Superintendent of Financial Services has the option of extending the agreements by one year, however, and also reserves the right to make specific plan appointments outside of the Vendor of Record arrangement where necessary.

The selected Vendors of Record are:

Mercer Human Resource Consulting
Morneau Sobeco Partnership Limited
PricewaterhouseCoopers Inc.

COURT/PROSECUTION MATTERS

The information set out below is current to May 26, 2006.

Court Matters

I. Kerry (Canada) Inc.

The FST conducted a hearing that arose from a Notice of Proposal in which the Superintendent proposed to order Kerry (Canada) Inc. to reimburse certain expenses paid from the pension fund and to amend its Pension Plan so that only expenses for the exclusive benefit of the members could be paid from the fund.

The FST released its decision on March 4, 2004. The FST held that certain expenses were to be reimbursed to the fund, while certain other expenses did not have to be reimbursed as they were incurred for the exclusive benefit of the members. The FST also held that there was no jurisdiction under the *Pension Benefits Act*, R.S.O. 1990, c. P.8 (PBA) for the Superintendent to order a plan amended.

A group of former members comprising the DCA Employees Pension Committee for the Pension Plan for the Employees of Kerry (Canada) Inc. appealed the FST's decision to the Divisional Court.

In a separate decision on the refusal issue, the panel held that contribution holidays were permitted and authorized by the trust, and that there were no grounds for a partial windup or for an order compelling the Superintendent to monitor the plan. The panel held that the conversion breached the trust insofar as the revised plan text allowed surplus from the defined benefit portion

of the plan to be used to fund liabilities for the defined contribution portion, as this diverted funds to the insurance contract with Standard Life. The panel directed the employer to either amend the plan text or transfer the defined contribution funds to the trustee; if this is not done within 90 days, the Superintendent is to refuse registration of the revised plan text.

Finally, the panel issued a separate decision concerning the members' committee's request that the legal costs incurred by the committee be paid out of the fund for the Plan. The majority of the panel determined that the FST did not have the jurisdiction to make such an order and also rejected the committee's request that costs be awarded against the employer.

In a separate Notice of Appeal, the members' committee has also appealed the panel's decision on the refusal and costs issues to the Divisional Court.

The appeal on the expenses issue was heard by the Divisional Court on March 31, 2005 and April 1, 2005. The appeal on the refusal and costs issues was heard on April 18 and 19, 2005. The panel reserved its decision on both appeals.

On March 15, 2006, the Divisional Court released its decision, holding:

- a) the terms of the trust did not allow Kerry to amend the Plan to authorize the payment of expenses from the fund, as this was not for the exclusive benefit of the members;
- b) the Superintendent does not have jurisdiction to order a plan or trust agreement amended;

- c) the contribution holidays were authorized by the terms of the Plan;
 - d) the restated 2000 Plan text which implemented the conversion was a partial revocation of trust, in that it allowed the employer to take contribution holidays from the defined benefit component of the Plan (which was a trust fund) to fund its obligations for the defined contribution component of the Plan (which was funded through an insurance company); this was cross-subsidization; Kerry would have to go back to the drawing board to draft the new Plan;
 - e) the notice provided to the members of the conversion was defective, and would have to be redone once the new Plan was drafted;
 - f) there is no jurisdiction under the *Financial Services Commission of Ontario Act* to order costs paid from a pension fund;
 - g) the standard of review that applies to the Financial Services Tribunal on questions of law, which include the interpretation of plan and trust documents, is the standard of correctness.
- Kerry has filed a motion for leave to appeal this decision to the Court of Appeal.

II. Participating Co-Operatives of Ontario Trustee Pension Plan

The board of trustees of the Participating Co-Operatives of Ontario Trustee Pension Plan filed an application before the Divisional Court under Rule 14 of the *Rules of Civil Procedure*, the *Pension Benefits Act* and the *Trustees Act* for the appointment of replacement trustees or an administrator and a declaration discharging the current Trustees. The application was initially scheduled to be heard on February 3, 2005 but was rescheduled to February 8, 2005 at which

time the hearing was adjourned pending a settlement conference.

III. Vivendi Universal Inc.

Vivendi Universal Inc. filed an application with the Ontario Superior Court of Justice for a declaration that the *Québec Supplementary Pension Plans Act* does not compel Vivendi to transfer surplus on behalf of Québec members on an asset transfer to Diageo Canada Inc. The application also asked for a declaration that the *PBA* applied to the transfer.

The Régie des Rentes du Québec brought a motion to have Vivendi's application dismissed on jurisdictional grounds. The motion was heard by the Ontario Superior Court on March 2, 2005. The court reserved its decision. On April 5, 2005, the Court released its decision, dismissing the motion without prejudice to the Régie to raise the issue of mootness on the main application. On May 10, 2005, the Régie's appeal of this decision was heard and dismissed.

The application was heard on the merits on October 27 and 28, 2005.

In April 2006, Vivendi and Diageo advised that they had settled the issue of surplus to be transferred to Quebec. Vivendi therefore withdrew its application to the Court before any decision was released.

IV. Rockwell Automation Canada Inc.

On February 20, 2006, the FST issued a decision affirming the Superintendent's March 1999 consent to an asset transfer from the Pension Plan for the Salaried and Management Employees of Reliance

Electric Ltd. (the "Reliance Plan") to the Revised Retirement Plan for the Employees of the Allen-Bradley Division of Rockwell International of Canada (now the Pension Plan for Employees of Rockwell Automation Canada Inc.). The FST held that it was not a breach to merge the two plans and that the terms of the Reliance Plan expressly permitted a merger. A Notice of Appeal has been filed with the Divisional Court with respect to this decision by Michael Lennon, on behalf of the members of the Reliance Plan.

PROSECUTION MATTERS

V. AON Consulting Inc. and J. Melvin Norton

Charges were laid on April 11, 2005 for failing to comply with accepted actuarial practice and failing to comply with section 22 of the *PBA*. The charges relate to the preparation and filing of two actuarial reports for the Slater Stainless Corp. CAW and USWA pension plans. The charges are currently being pre-tried and a trial date will be set soon. The first appearance was on May 18, 2005. A pre-trial conference was initially convened on June 22, 2005 and continued on August 22, 2005 and September 26, 2005. The pre-trial conference resumption and next appearance took place on November 7, 2005. Trial dates were set for May 12 and June 23, 2006.

On May 12, 2006, the Court heard a motion to quash the charges brought by AON. Mr. Norton joined in the motion with respect to some of the charges. The Court indicated that it would require some time to decide the motion, and advised that the previously scheduled second trial date of June 23 could likely not take place. The parties scheduled

June 7 as a date to return to court to speak to the status of the matter.

II. Jerrett Funeral Homes Service Corporation International (Canada) Limited

Charges were laid against the Jerrett Funeral Services Corporation International (Canada) Limited ('Employer') and its corporate officer for failing to remit employer and employee contributions. The first appearance was on March 22, 2006. The charges were withdrawn on April 5, 2006 because the Employer provided evidence that it had sent payment for the arrears prior to the laying of charges but the payment was not processed by the fund custodian due to administrative inadvertence.



SUPERINTENDENT OF FINANCIAL SERVICES**Administrator Appointments – Section 71 of the Pension Benefits Act**

1. Manulife Financial as the Administrator of the Retirement Plan of Repla Limited and Akna Industries Ltd., effective immediately.

DATED at Toronto, Ontario, this 18th day of November, 2005.

2. London Life Insurance Company as the Administrator of the Pension Plan for Employees Tiger Brand Knitting Company Ltd., effective immediately.

DATED at Toronto, Ontario, this 28th day of December, 2005.

3. Morneau Sobeco Limited Partnership as the Administrator of the Pension Plan for General Chemical Salaried Employees, effective immediately.

DATED at Toronto, Ontario, this 8th day of December, 2005.

4. Morneau Sobeco Limited Partnership as the Administrator of the Pension Plan for General Chemical Bargaining Unit Employees, effective immediately.

DATED at Toronto, Ontario, this 8th day of December, 2005.

5. Morneau Sobeco Limited Partnership as the Administrator of the MEC Retirement Plan For Salaried Employees, effective immediately.

DATED at Toronto, Ontario, this 22nd day of December, 2005.

Morneau Sobeco Limited Partnership as the Administrator of the MEC Bargaining Unit Pension Plan for Members of United Steelworkers of America, effective immediately.

DATED at Toronto, Ontario, this 22nd day of December, 2005..

7. Sun Life Financial as the Administrator of the Pension Plan for Employees of Siematic (Canada) Limited Partnership and Participating Affiliates, effective immediately.

DATED at Toronto, Ontario, this 23rd day of November, 2005.

8. Manulife Financial as the Administrator of the Pension Plan for Employees of Nadeau Et Fils 1354342 Ontario Inc., effective immediately.

DATED at Toronto, Ontario, this 7th day of December, 2005.

9. Mercer Human Resource Consulting as the Administrator of the Pension Plan for Employees of Regal Greetings & Gifts Corporation, effective immediately.

DATED at Toronto, Ontario, this 20th day of October, 2005.

10. London Life Insurance Company as the Administrator of the Pension Plan for Employees of Tandem Fabrics Inc., effective immediately.

DATED at Toronto, Ontario, this 7th day of October, 2005.



11. PricewaterhouseCoopers Inc. as the Administrator of the Pension Plan for Salaried Employees of 0521728 Ontario Ltd., effective immediately.

DATED at Toronto, Ontario, this 28th day of September, 2005.

12. Standard Life as the Administrator of the Pension Plan for Employees of Hastings Inc., effective immediately.

DATED at Toronto, Ontario, this 3rd day of August, 2005.

13. Cowan Wright Beauchamp as the Administrator of the BMG North America Limited Retirement Income Plan for Non-Union Employees of, effective immediately.

DATED at Toronto, Ontario, this 28th day of July, 2005.

14. Cowan Wright Beauchamp as the Administrator of the Pension Plan for Employees of Olympia Business Machines Canada Ltd., effective immediately.

DATED at Toronto, Ontario, this 28th day of July, 2005.

15. The Standard Life as the Administrator of the Pension Plan for Employees of Daniel E. Oakes & Associates Ltd., effective immediately.

DATED at Toronto, Ontario, this 6th day of July, 2005.

16. Great West London Life as the Administrator of the Pension Plan for Employees of A. Van Egmond Construction Ltd., effective immediately.

DATED at Toronto, Ontario, this 6th day of July, 2005.

17. Morneau Sobeco Limited Partnership as the Administrator of the Pension Plan for Hourly Employees of Decor Products International, a Division of Kleco Corporation, effective immediately.

DATED at Toronto, Ontario, this 30th day of June, 2005.

18. Great West London Life as the Administrator of the Pension Plan for Salaried Employees of Decor Products International, a Division of Kleco Corporation, effective immediately.

DATED at Toronto, Ontario, this 27th day of June, 2005.

19. Mackenzie Financial Corporation as the Administrator of the Pension Plan for Employees of Community Christian Health Care Agency Hamilton Inc., effective immediately.

DATED at Toronto, Ontario, this 16th day of June, 2005.

20. Great West Life Assurance Company as the Administrator of the Pension Plan for Employees of The Royal Connaught, a Division of Joymarmon Properties Inc., effective immediately.



DATED at Toronto, Ontario, this 10th day of June, 2005.

DATED at Toronto, Ontario, this 6th day of May, 2005.

21. Manulife Financial as the Administrator of the Pension Plan for Employees of Central Chrysler (1981) Ltd., effective immediately.

26. PricewaterhouseCoopers Inc. as the Administrator of the Pension Plan for designated Employees of Ivaco Inc., effective immediately.

DATED at Toronto, Ontario, this 24th day of May, 2005.

DATED at Toronto, Ontario, this 3rd day of May, 2005.

22. Great West Life Assurance Company as the Administrator of the Pension Plan for Employees of International Controls Ltd., effective immediately.

27. PricewaterhouseCoopers Inc. as the Administrator of the Pension Plan for Salaried Employees of Ivaco Inc., effective immediately.

DATED at Toronto, Ontario, this 17th day of May, 2005.

DATED at Toronto, Ontario, this 3rd day of May, 2005.

23. Manulife Financial as the Administrator of the Pension Plan for Employees of Collins Commercial Photocopy Ltd., effective immediately.

28. London Life Insurance Company as the Administrator of the Pension Plan for Employees of Premium Pork Canada Inc., effective immediately.

DATED at Toronto, Ontario, this 9th day of May, 2005.

DATED at Toronto, Ontario, this 23rd day of March, 2005.

24. Desjardins Financial Security Life Assurance Company as the Administrator of the Pension Plan for Employees of Toronto Victoria Financial Group Inc., effective immediately.

29. Manulife Financial as the Administrator of the Pension Plan for Employees of Baker, Gurney & McLaren Press Ltd., effective immediately.

DATED at Toronto, Ontario, this 9th day of May, 2005.

DATED at Toronto, Ontario, this 23rd day of March, 2005.

25. Thompson Actuarial Limited as the Administrator of the Pension Plan for Employees of Stearns Canada, a division of The Stearns Technical Textiles Company, effective immediately.



Notices of Proposal to Make an Order

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(4) of the *Act* consenting to a payment out of the **The Retirement Plan for Salaried Employees of Specialty Chemicals - A Division of Honeywell ASCa Inc.** (the Plan), Registration Number 0338889.

TO: Charlene Arje
Director Canadian Business Services
Honeywell ASCa Inc.
3333 Unity Drive
Mississauga ON L5L 3S6

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER

under s. 78(4) of the *Act*, consenting to the payment, out of the **The Retirement Plan for Salaried Employees of Specialty Chemicals - A Division of Honeywell ASCa Inc., to Honeywell ASCa Inc.**, as at **September 23, 2001** in the amount of **\$17,412.86** plus interest to the date of payment for the following reason and such further reasons that may come to my attention:

1. **Honeywell ASCa Inc.** is the employer as defined in the Plan.
2. As a result of an **Administrative oversight, the contributions were made directly from the company funds instead of the pension fund.**

3. Evidence of the Overpayment to the fund has been submitted to the Financial Services Commission of Ontario.
4. There were no member submissions made about the repayment.
5. The application appears to comply with section 78(4) of the *Act*.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to subsection 89(6) of the *Act* if, within thirty (30) days after this Notice of Proposal is served¹ on you, you deliver to the Tribunal a written notice that you require a hearing.

Your written notice requiring a hearing must be delivered to:
Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York, ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 22 day of December, 2005.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE—PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(4) of
the *Act* consenting to a payment out of the
Hospitals of Ontario Pension Plan (the Plan),
Registration Number **346007**.

TO: Claire Woodcock
Hospitals of Ontario Pension Plan
1 Toronto Street, Suite 1400
Toronto, ON M5C 3B2
Senior Policy Advisor (Acting)

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(4) of the *Act*, consenting to the payment,
out of the **Hospitals of Ontario Pension**
Plan, to **Rainbow North Emergency Medical**
Services, as at **December 31, 2003** in the
amount of **\$2,599.91** plus interest to the date
of payment for the following reason and
such further reasons that may come to my
attention:

1. **Hospitals of Ontario Pension Plan** is
the employer as defined in the Plan.
2. As a result of the **participating**
employer's termination from the
pension plan, reconciliation of
their account revealed an over-
contribution.
3. Evidence of the Overpayment to
the fund has been submitted to the
Financial Services Commission of
Ontario.

4. There were no member submissions
made about the repayment.
5. The application appears to comply with
section 78(4) of the *Act*.

In accordance with subsection 105.(1) of the
Act, an extension of the time limit under
subsection 78(4) has been given.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to subsection 89(6) of the *Act* if,
within thirty (30) days after this Notice of
Proposal is served¹ on you, you deliver to the
Tribunal a written notice that you require a
hearing.

Your written notice requiring a hearing must
be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York, ON M2N 6L9

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.

DATED at Toronto, Ontario, this 3rd day of
January 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE—PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if
delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served,
or delivered on the seventh day after mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P8, as amended (the Act);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(4) of
the Act consenting to a payment out of the
Hospitals of Ontario Pension Plan (the Plan),
Registration Number 346007.

TO: Claire Woodcock
Hospitals of Ontario Pension Plan
1 Toronto Street, Suite 1400
Toronto, ON M5C 3B2

Senior Policy Advisor (Acting)

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(4) of the Act, consenting to the payment,
out of the **Hospitals of Ontario Pension Plan**,
to the **Schizophrenia Society of Ontario**,
as at December 31, 2004 in the amount of
\$4,929.72 plus interest to the date of payment
for the following reason and such further
reasons that may come to my attention:

1. **Hospitals of Ontario Pension Plan** is
the employer as defined in the Plan.
2. As a result of **the participating
employer's termination, a
reconciliation of the plan revealed an
over contribution.**
3. Evidence of the Overpayment to
the fund has been submitted to the
Financial Services Commission of
Ontario.

4. There were no member submissions
made about the repayment.
5. The application appears to comply with
section 78(4) of the Act.

In accordance with subsection 105.(1) of the
Act, an extension of the time limit under
subsection 78(4) has been given.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to subsection 89(6) of the Act if,
within thirty (30) days after this Notice of
Proposal is served¹ on you, you deliver to the
Tribunal a written notice that you require a
hearing.

Your written notice requiring a hearing must
be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York, ON M2N 6L9

Attention: The Registrar

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 3rd day of
January 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE—PURSUANT to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by the
Superintendent of Financial Services to make
an Order under subsection 78(4) of the *Act*
consenting to a payment out of the **Pension
Plan for the Employees Idlewyld Manor** (the
Plan) , Registration Number **0957837**.

TO: Dave Drywood
Manager of Financial Services
Idlewyld Manor
449 Sanatorium Rd
Hamilton, ON L9C 2A7

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(4) of the *Act*, consenting to the payment,
out of the **Pension Plan for the Employees
Idlewyld Manor**, to **Idlewyld Manor**, as
at **September 30, 2004** in the amount of
\$6,822.20 plus interest to the date of payment
for the following reason and such further
reasons that may come to my attention:

1. **Idlewyld Manor** is the employer as
defined in the Plan.
2. As a result of **an audit of 2004 pension
contributions which revealed
an overpayment for August and
September of 2004.**
3. Evidence of the Overpayment to
the fund has been submitted to the
Financial Services Commission of
Ontario.
4. There were no member submissions
made about the repayment.

¹ NOTE—PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

5. The application appears to comply with
section 78(4) of the *Act*.

In accordance with subsection 105.(1) of the
Act, an extension of the time limit under
subsection 78(4) has been given.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to subsection 89(6) of the *Act* if,
within thirty (30) days after this Notice of
Proposal is served¹ on you, you deliver to the
Tribunal a written notice that you require a
hearing.

Your written notice requiring a hearing must
be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York, ON M2N 6L9

Attention: The Registrar

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 4th day of
January, 2006

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the *Act*,
respecting the **Servifood Ltd. Pension Plan**
(the Plan), Registration Number **684225**.

TO: David R. Kearney
Principal
Morneau Sobeco
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Real Morin
President
Servifood Ltd.
180 blvd. Rene Levesque Est
Suite 408
Montreal, Quebec H2X 1N6

Employer

AND TO: Ronald P. Gagnon, LL.B.
Senior Manager, Financial
Advisory
**Samson Belair/Deloitte &
Touche Inc.**
1111 rue St.-Charles Ouest
Bureau 550 - Tour Est
Longueuil, Quebec J4K 5G4

Trustee in Bankruptcy

AND TO: Charlie Renaud
**Service Employees
International Union (Local 204)**
2180 Steeles Avenue W.,
Suite 200
Concord, ON L4K 2Z5

Union Representative

**NOTICE OF PROPOSAL TO MAKE AN
ORDER**

I PROPOSE TO MAKE AN ORDER under
section 69 of the *Act* that the Plan be wound
up effective **April 16, 2004** for the following
reasons and such further reasons that may
come to my attention.

The wind up is to include the class of
Plan members whose employment or Plan
membership terminated during the period
September 30, 1999 to April 16, 2004.

**There was a cessation or suspension of
employer contributions to the pension
fund.**

**The employer failed to make
contributions to the pension fund
as required by this Act.**

**The employer is bankrupt within
the meaning of the Bankruptcy and
Insolvency Act (Canada).**

**A significant number of members of
the pension plan ceased to be employed
by the employer as a result of the
discontinuance of all or part of the
business of the employer or as a result of
the reorganization of the business of the
employer.**

All or a significant portion of the business carried on by the employer at a specific location was discontinued.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the *Act*, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹.

Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 4th day of January, 2006

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the “*Act*”);

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
Make an Order under section 69 of the *Act*
respecting the **Pension Plan for Employees of
Loba Limited, Registration Number 1026335
(the “Plan”)**;

TO: Loba Limited
c/o Welton Parent Inc.
5310 Canotek Road, Suite 210
Ottawa, ON K1J 9N5

Attention: Sylvain Parent
President

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER in
respect of the Plan under section 6 of the *Act*.

PROPOSED ORDER:

That the Plan be wound up in whole effective
May 1, 2005

REASONS FOR THE ORDER:

1. The Plan has been registered under the *Act* effective January 1, 1996. The Plan is sponsored and administered by Loba Limited (“Loba”).
2. On April 11, 2005 the Deputy Superintendent, Pensions received a notice from the Canada Revenue Agency, Registered Plans Directorate, enclosing a notice sent to Loba advising that the Plan’s registration under subsection 147.1(12) of the *Income Tax Act* (Canada) had been revoked effective April 1, 2000. The reasons for the revocation were provided

to the Plan in a notice of intent from the Canada Revenue Agency in a letter dated October 16, 2003, and were based on the Plan’s failure to comply with provisions under the *Income Tax Act*. An appeal of the Minister’s notice of intent by Loba to the Federal Court of Appeal was dismissed and application by Loba for Leave to Appeal to the Supreme Court of Canada was dismissed on April 7, 2005.

3. On April 29, 2005, Loba submitted a resolution amending the Plan to suspend all member contributions to the pension plan effective May 1, 2005. The amendment was registered on November 21, 2005. A covering letter from Welton Parent cites the revocation of the Plan’s registration under the *Income Tax Act* as the reason for the suspension of contributions.
4. The registration of the Plan amendment suspending contributions of Loba and the Plan members is a cessation or suspension of employer contributions to the pension fund within the meaning of clause 69(1)(a) of the *Act*, and accordingly the Superintendent has the authority to order a wind up of the plan.
5. There is no benefit to members in not winding up the Plan because the decision of Minister to revoke the registration of Plan under the *Income Tax Act* is a final determination and the Plan cannot again be registered. The stated reason for the suspension of contributions (the revocation of the Plan under the *Income Tax Act*) will be permanent. Therefore there is no basis for the Superintendent not to exercise his discretion not to order a wind up of the Plan.



6. Such further reasons as may come to my attention.

DATED at Toronto, Ontario, this 5th day of January, 2006.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

K. David Gordon
Deputy Superintendent, Pensions

YOUR WRITTEN NOTICE REQUIRING A HEARING must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

For further information, contact the registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY MAKE THE ORDER PROPOSED IN THIS NOTICE.

THE ADMINISTRATOR IS REQUIRED pursuant to subsection 89(5) to transmit a copy of this Notice of Proposal to the following persons:

All members and former members who would be affected by the wind-up of this Plan.

¹ PURSUANT TO section 112 of the *Act*, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the *Act*, respecting the **Slater Steel Inc. Pension Plan for Salaried Employees of Slacan Division** (the "Plan"), Registration Number 0489310.

TO: David Kearney
Principal
Morneau Sobeco Limited Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Paul Davis
Vice President, Administration
Slater Stainless Corp.
Markborough Place
6711 Mississauga Road, Ste. 202
Mississauga ON L5N 2W3

Employer

AND TO: Jeff Rosenberg
PricewaterhouseCoopers Inc.
145 King Street West
Toronto, ON M5G 1V8

Receiver

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the *Act* that the Plan be wound up in full effective **August 31, 1997** for the

following reasons and such further reasons that may come to my attention:

There was a cessation or suspension of employer contributions to the pension fund.

The employer failed to make contributions to the pension fund as required by this Act.

All or part of the employer's business or all or part of the assets of the employer's business are sold, assigned or otherwise disposed of and the person who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the *Act*, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

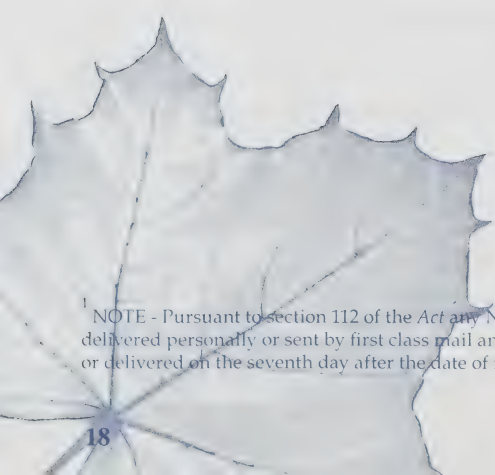
Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 5th day of January, 2006.

K. David Gordon
Deputy Superintendent, Pensions



¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 69 of the
Act, respecting the **Pension Plan for the
Employees of Tandem Fabrics Inc.** (the Plan)
Registration Number 0466151.

TO: Darlene Sundercock
Wind-up Customer Service
Specialist
**London Life Insurance
Company**
255 Dufferin Avenue
London, ON N6A 4K1

Administrator

AND TO: Lorraine Leblanc
Plan Administrator
Tandem Fabrics Inc.
170 Mill Road, NB E1A 4B1

Employer

AND TO: Mathew J. Munro
Vice President
PricewaterhouseCoopers Inc.
P.O. Box. 789
44 Chipman Hill, Suite 300
Saint John, NB E2L 4B9

Trustee in Bankruptcy

**NOTICE OF PROPOSAL TO MAKE AN
ORDER**

I PROPOSE TO MAKE AN ORDER under
section 69 of the *Act* that the Plan be wound
up effective **July 8, 2005** for the following

reasons and such further reasons that may
come to my attention:

**There was a cessation or suspension of
employer contributions to the pension
fund.**

**The employer failed to make
contributions to the pension fund as
required by this Act.**

**The employer is bankrupt within
the meaning of the Bankruptcy and
Insolvency Act (Canada).**

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the *Act*, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
Any notice requiring a hearing shall be
delivered to the:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at 416-
226-7752, toll free at 1-800-668-0128, ext. 7752,
or by fax at 416-226-7750.

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE**

**A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 20th day of
January, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the *Act*,
respecting the **Pension Plan for Employees
of Nadeau et Fils 1354342 Ontario Inc.** (the
Plan) Registration Number **1085372**

TO: Melissa Lambert
Plan Design Specialist
Manulife Financial
P. O. Box 396
Delivery Station KC6
Waterloo, ON N2J 4A9

Administrator

AND TO: Benoit Nadeau
President
**Nadeau et Fils 1354342
Ontario Inc.**
P.O. Box 166
Elk Lake, ON POJ 1G0

Employer

**NOTICE OF PROPOSAL TO MAKE AN
ORDER**

I PROPOSE TO MAKE AN ORDER under
section 69 of the *Act* that the Plan be wound
up effective **March 31, 2003** for the following
reasons and such further reasons that may
come to my attention:

**There was a cessation or suspension of
employer contributions to the pension
fund.**

The employer failed to make

**contributions to the pension fund as
required by this Act.**

**The employer is bankrupt within
the meaning of the Bankruptcy and
Insolvency Act (Canada).**

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the *Act*, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
Any notice requiring a hearing shall be
delivered to the:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at 416-
226-7752, toll free at 1-800-668-0128, ext. 7752,
or by fax at 416-226-7750.

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 20th day of
January, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Wind up
Report prepared and filed by Eckler Partners
Ltd. on behalf of Caanron Construction
Limited dated June 3, 2004, with respect to
the wind up of the **Pension Plan For the
Hourly Employees of Canron Construction
Inc Registration No. 1044288** (the "Plan")
effective December 31, 2003.

TO: **Canron Construction Inc.**
100 Disco Road,
Rexdale, ON M9W 1M1

Attention: J.S. (Paul) Kandola
Vice President and General
Manager

**Employer and Administrator
of the Plan**

AND TO: **Eckler Partners Ltd.**
110 Shepard Avenue East,
Suite 900
Toronto, ON M2N 7A3

Attention: George Mitchell

Plan Actuaries

AND TO: **Iain G. Potter**
300 Mill Road
Unit E24
Etobicoke ON M9C 4W7

**President, The Employees
Association of Canron Inc.**

NOTICE OF PROPOSAL

I PROPOSE TO ORDER Canron
Construction Inc. to file a revised wind up
report under clause 88(2)(c) of the *Act* within
30 days of the date of this Notice of Proposal,
with respect to the wind up of the Plan and
the wind up report filed on June 9, 2004.
The revised wind up report shall include
the provision for the payment of benefits
under clause 8.02(d) of the Plan (the "bridge
benefits") for all plan members affected by the
wind up who had a combination of age plus
years of service totalling 85, or if they had age
plus years of service totalling 55, would have
grown into age plus years of service totalling
85 at retirement.

REASONS FOR THE PROPOSED ORDER:

1. The Plan was wound up effective
December 31, 2003. A wind up report
was filed with the Superintendent on June
9, 2004. The initial report identified the
bridge benefit payable under clause 8.02(d)
of the Plan and quantified the liability
associated with the bridge benefit as being
\$296,000. However, it did not include
the bridge benefit as a plan liability on
the basis that the members who were
entitled to the bridge benefit had accepted
a severance package, terminating their
employment, and the bridge benefit was
only available on retirement.
2. Subsection 74(3) of the *Act* provides
that bridging benefits offered under the
pension plan to which a member would
be entitled if the pension plan were not
wound up and if the membership of the
member were continued shall be included
in calculating the pension benefit under
subsection 74(1) of a person who has at

least ten years of continuous employment with the employer or has been a member of the pension plan for at least ten years.

3. The members entitled to the bridge benefits in question had their membership in the plan terminated as a result of the wind up of the plan. The decision to wind up the plan was due to a decision of the employer to cease operation at its Rexdale facility and terminate all hourly employees effective December 31, 2003. The wind up report has reflected this by calculating other benefits for these members in accordance with clause 8.02, the early retirement benefit provisions of the Plan, instead of the termination of membership provisions in clause 12.
4. Accordingly, subsection 74(3) applies for the purposes of determining benefits on plan wind up. The members in question would have become entitled to the bridge benefit had the plan not been wound up and, therefore, must be provided with the bridge benefits upon wind up.
5. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
North York ON M2N 6L9

Attention: The Registrar

For further information, contact the registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY MAKE THE ORDER AS PROPOSED IN THIS NOTICE.

DATED at Toronto, Ontario, this 27th day of January, 2006.

K. David Gordon
Deputy Superintendent, Pensions

Copy: Priscilla H. Healy
Pallett Valo LLP

¹ NOTE - PURSUANT TO section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the *Act*,
respecting the **Pension Plan for Tiger Brand
Knitting Company** (the Plan) Registration
Number 0310136.

TO: Darlene Sundercock
Wind-up Customer Service
Specialist
London Life Insurance Company
255 Dufferin Avenue
London, ON N6A 4K1

Administrator

AND TO: Barbara Braniff
Administrator
**Tiger Brand Knitting
Company Ltd.**
96 Grand Ave. S., Box 188
Cambridge, ON N1R 5S9

Employer

AND TO: Naveed Z. Manzoor
RSM Richter Inc.
200 King St. W., Suite 1100
Toronto, ON M5H 3T4

Trustee in Bankruptcy

**NOTICE OF PROPOSAL TO MAKE AN
ORDER**

I PROPOSE TO MAKE AN ORDER under
section 69 of the *Act* that the Plan be wound
up effective **April 22, 2005** for the following
reasons and such further reasons that may
come to my attention:

NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if
delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served
or delivered on the seventh day after the date of mailing.

**There was a cessation or suspension of
employer contributions to the pension
fund.**

**The employer is bankrupt within
the meaning of the Bankruptcy and
Insolvency Act (Canada).**

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the *Act*, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
Any notice requiring a hearing shall be
delivered to the:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at 416-
226-7752, toll free at 1-800-668-0128, ext. 7752,
or by fax at 416-226-7750.

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 2nd day of
February, 2006.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Proposal to Refuse to Approve a Partial Wind up Report by the Superintendent of Financial Services under section 70 of the *Act*, relating to the **Pension Plan for Employees of BetzDearborn Canada Registration No. 0220459**.

AND IN THE MATTER OF a Proposal to Require a New Report by the Superintendent of Financial Services under section 88 of the *Act* relating to the **Pension Plan for Employees of BetzDearborn Canada Registration No. 0220459 (the "Plan")**.

TO: **BetzDearborn Canada Inc.**
2300 Meadowvale Blvd.
Maildrop C20
Mississauga, ON L5N 5P9

Attention: Lin Ann Rowe
Secretary-GE Betz Pension
Committee

**Employer and Administrator
of the Plan**

NOTICE OF PROPOSAL

I PROPOSE TO REFUSE TO APPROVE the Report on the Partial Wind-up of the Pension Plan for Employees of BetzDearborn Canada, Inc. as at December 31, 1996, dated September 30, 1997, (the "Initial Report") relating to the Plan pursuant to section 70 of the *Act*.

I ALSO PROPOSE TO REQUIRE A NEW REPORT to be prepared and filed within sixty (60) days from the date of

this Notice of Proposal, which shall deal with the distribution of surplus related to the partial wind up effective December 31, 1996, relating to the Plan, pursuant to sections 70 and 88 of the *Act*.

REASONS FOR THE PROPOSED ORDER:

1. The Plan was partially wound up effective December 31, 1996. A partial wind up report was filed with the Superintendent on October 27, 1997, (the "Initial Report"). The Initial Report showed that there was an excess of partial wind up assets over liabilities in the amount of \$2,515,000. The initial report did not contain any proposal for the distribution of surplus to the members of the Plan who were affected by the partial wind up.
2. On June 26, 1998, the Superintendent approved the distribution of basic benefits pursuant to section 70(3) of the *Act*.
3. The June 26, 1998, letter from the Superintendent references section 70(6) of the *Act* and states that "pursuant to subsection 70(6) of the *Act*, the members, former members and other persons affected by the partial wind up 'shall have rights and benefits that are not less than the rights and benefits they have on a full wind up of the pension plan on the effective date of the partial wind up.' The rights and benefits referred to in this subsection may include any entitlements to surplus that would exist on a full wind up. As a result, the surplus attributable to the members, former members and other persons affected by the partial wind up must be dealt with in accordance with the *Act*."

4. No action was taken by the administrator of the Plan respecting the surplus related to the partial wind up.
5. By letter dated August 17, 2004, the Financial Services Commission of Ontario ("FSCO") informed the plan administrator that the partial wind up of the plan had not been completed because there are assets that relate to the partial wind up portion of the Plan that were not distributed on the effective date of the partial wind up of the Plan.
6. FSCO requested that the plan administrator provide an update of the funding position of the Plan in respect to the partially wound-up portion of the Plan and if any surplus assets related to the partial wound up portion of the Plan remain, advise FSCO of the proposed plan and timetable to expedite the distribution of surplus.
7. The Plan administrator did not comply with the Superintendent's request and reminder letters were sent to the plan administrator on November 15, 2004, and on January 26, 2005.
8. The plan administrator by letter dated February 7, 2005, indicated that it was seeking advice from its actuaries and legal counsel regarding the proper course to follow. It also advised that it was making best efforts to comply with FSCO's requirements. FSCO, by letter dated February 25, 2005, granted an extension of time to the plan administrator to March 25, 2005.
9. The plan administrator subsequently requested an extension of time to May 25, 2005, which was granted by FSCO. FSCO also granted a further extension of time, at plan administrator's request, to September 25, 2005.
10. The plan administrator has not provided the update on the financial position for the partial wind up of the Plan and the proposed plan for distribution of the remaining assets related to the partially wound-up portion of the Plan as requested by FSCO.
11. Clause 88(2)(c) of the *Act* states that the Superintendent may make an order requiring the preparation of a new report and specifying the assumptions or methods or both that shall be used in the preparation of the new report, if the Superintendent is of the opinion that a report submitted in respect of a pension plan does not meet the requirements and qualifications of the *Act*, regulations, or the pension plan.
12. Section 1 of the *Act* defines "partial wind up" as meaning a distribution of assets of the Plan that are related to the partial wind up.
13. Section 1 of the *Act* defines "surplus" as the excess of the value of the assets of a pension fund related to a pension plan over the value of the liabilities under the pension plan, both calculated in the prescribed manner.
14. Subsection 70(6) of the *Act* states that on a partial wind up, members, former members, and other persons entitled to

benefits under the pension plan shall have rights and benefits that are not less than the rights and benefits they would have on a full wind up of the pension plan on the effective date of the partial wind up.

15. Clause 70(1)(c) of the *Act* states that the administrator shall file a partial wind up report that sets out the methods of allocating and distributing the assets of the pension plan and determining the priorities for payment of benefits.
16. The Supreme Court of Canada has confirmed, in *Monsanto Canada Inc. et al. v. Superintendent of Financial Services* (2004 SCC 54), that members affected by a partial wind up are entitled to have surplus assets distributed on the effective date of the partial wind up.
17. Therefore, the Initial Report does not comply with the *Act* because it does not provide for the distribution of surplus on partial wind up.
18. Clause 87(2)(c) of the *Act* states that the Superintendent may make an order if the Superintendent is of the opinion, upon reasonable and probable grounds, that the administrator or employer of the plan is contravening a requirement of the *Act* or regulations.
19. On a full wind up, all assets of the plan are distributed. If there are surplus assets, and the members are entitled to surplus under the terms of the pension plan, the surplus must be distributed to the members. If there are surplus assets, and the employer is entitled to surplus under the terms of the pension

plan, the employer must apply to the Superintendent for the Superintendent's consent to withdraw surplus pursuant to subsection 79(3) of the *Act*. The employer must also obtain the consent of at least 2/3 of the members pursuant to section 8 of Regulation 909, as amended.

20. Because the members are entitled to a surplus distribution on full wind up if they are entitled to surplus under the plan, they have the same right on partial wind up.
21. Because the members are entitled to consent to a surplus withdrawal by the employer on full wind up if the employer is entitled to surplus under the plan, they have the same right on partial wind up.
22. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal of Ontario (the "Tribunal") pursuant to subsection 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.

YOUR WRITTEN REQUEST must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, ON M2N 6L9

Attention: The Registrar

For further information, contact the Registrar of the Tribunal by phone at 416-226-7752, or toll free at 1-800-668-0128 ext. 7752, or by fax at 416-226-7750.

**IF YOU FAIL TO REQUEST A HEARING
WITHIN THIRTY (30) DAYS, I MAY
ISSUE THE ORDERS PROPOSED IN THIS
NOTICE OF PROPOSAL.**

DATED at North York, Ontario, this 6th day
of February, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ PURSUANT TO section 112 of the *Act*, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O.1990, c.P.8, as amended (the "Act");

AND IN THE MATTER OF a Proposal to
Make an Order under section 87 of the *Act* in
relation to the **Pension Plan for Employees of
National Steel Car Limited**, Registration
Number 0215038;

TO: **National Steel Car Limited**
600 Kenilworth Avenue North
P.O. Box 2450, Stn Lcd 1
Hamilton, Ontario L8N 3J4

Linda A. Smith
Manager, Payroll & Benefits

Employer and Administrator

AND TO: Mr. Taso Ristic
c/o C. Winterburn
**Local Union 7135, United Steel
Workers of America**
350 Kenilworth Avenue N.
First Floor
Hamilton, Ontario L8H 4T3

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER
pursuant to section 87 of the *Act* requiring
National Steel Car Limited ("National Steel
Car") to credit Mr. Taso Ristic ("Mr. Ristic"),
a former member of the Pension Plan for
Employees of National Steel Car Limited,
Registration Number 0215038 (the "Plan"),
with service under the Plan for the period
or periods of time during which Mr. Ristic
was laid off from employment and receiving
partial permanent disability benefits from the
Workmen's Compensation Board (the "WCB").

REASONS:

1. National Steel Car is the employer and administrator of the Plan.
2. Mr. Ristic was employed by National Steel Car Limited and was a member of the Plan from June 24, 1964 to February 24, 1977.
3. Mr. Ristic sustained a workplace injury and off work from December 21, 1971 to January 17, 1972, during which time he received total temporary disability benefits from the WCB.
4. Mr. Ristic was again off work and received total temporary disability benefits from the WCB from February 14, 1972 to April 10, 1972.
5. On April 11, 1972, Mr. Ristic returned to work and began receiving partial permanent disability benefits from the WCB.
6. Mr. Ristic was again laid off from July 14, 1972 to November 6, 1973, during which time he continued to receive partial permanent disability benefits from the WCB.
7. On February 24, 1975, Mr. Ristic was laid off for the last time. On February 24, 1977, his employment status was altered from laid off to quit pursuant to the collective agreement. Mr. Ristic continued to receive partial permanent disability benefits from the WCB throughout.
8. The Plan provisions in effect while Mr. Ristic was employed by National Steel Car provided in Part II, paragraph 3:

The number of complete weeks for which an Employee receives Workmen's Compensation benefits shall be credited on the basis of 40 hours for each week, provided that no Employee shall be credited with service under this subsection after retirement.

9. The Plan did not define the term "Workmen's Compensation benefits".
10. The *Workmen's Compensation Act*, R.S.O. 1970, c.505 (the "WCA") provides for four types of workers' compensation benefits: partial temporary disability benefits; total temporary disability benefits; partial permanent disability benefits; and total permanent disability benefits. The WCA refers to all of these benefits as "compensation".
11. The Plan provision cited in paragraph 8 above does not distinguish among the various types of workers' compensation benefits. Absent such a distinction, and absent any definition of the term "Workmen's Compensation benefits" in the Plan, that term must include all four types of workers' compensation benefits provided by the WCA at the time of Mr. Ristic's various layoffs from employment.
12. National Steel Car has refused to credit Mr. Ristic with service under the Plan for the periods during which he was laid off and receiving partial temporary disability benefits from the WCB.
13. The Act states in clause 87(2)(a) that the Superintendent of Financial Services (the "Superintendent") may require an

administrator to take any action if the Superintendent is of the opinion, upon reasonable and probable grounds, that the pension plan is not being administered in accordance with the pension plan.

14. National Steel Car is not administering the Plan in accordance with its terms by refusing to credit Mr. Ristic with service under the Plan for the time or times during which Mr. Ristic was laid off from employment and receiving partial permanent disability benefits from the WCB.
15. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *PBA*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you¹.

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at (416) 226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at (416) 226-7750.



**IF YOU FAIL TO REQUEST A HEARING
WITHIN THIRTY (30) DAYS, I MAY MAKE
THE ORDER PROPOSED IN THIS NOTICE
OF PROPOSAL.**

DATED at Toronto, Ontario, February 6th,
2006.

K. David Gordon
Deputy Superintendent, Pensions

cc Blake, Cassels & Graydon LLP
Barristers & Solicitors
Box 25, Commerce Court West
199 Bay Street
Toronto, Ontario
M5L 1A9
Attention: Jeffrey P. Sommers

¹ NOTE - PURSUANT TO section 112 of the *PBA*, any Notice, Order, or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the *Act*,
respecting the **Decor Products International,**
a Division of Kleco Corporation Hourly
Pension Plan (the "Plan") Registration
Number **0696864**.

TO: David R. Kearney
Principal
Morneau Sobeco Limited
Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Ron Henderson
Controller
Decor Products International,
a Division of Kleco Corporation
140 Bay Street
Midland, ON L4R 4L4

Employer

AND TO: Wayne Palmer
Trustee
RSM Richter Inc.
200 King Street West
Suite 1100
Toronto, ON M5H 3T4

Trustee in Bankruptcy

AND TO: Wayne Latour
The National Automobile,
Aerospace and Agricultural
Implement Workers of Canada
(CAW-Canada) Local 1411
P.O. Box 550
Midland, ON L4R 4L3

Union Representative

NOTICE OF PROPOSAL TO MAKE AN
ORDER

I PROPOSE TO MAKE AN ORDER under
section 69 of the *Act* that the Plan be wound
up effective **March 8, 2005** and include the
class of members whose employment or
membership terminated during the period of
February 11, 2005 and March 8, 2005 for the
following reasons and such further reasons
that may come to my attention:

There was a cessation or suspension
of employer contributions to the
pension fund.

The employer failed to make
contributions to the pension fund as
required by this Act.

The employer is bankrupt within
the meaning of the Bankruptcy and
Insolvency Act (Canada).

A significant number of members
of the pension plan ceased to be
employed by the employer as a result
of the discontinuance of all or part
of the business of the employer or as
a result of the reorganization of the
business of the employer.



All or a significant portion of the business carried on by the employer at a specific location was discontinued.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the *Act*, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. **Any notice requiring a hearing shall be delivered to the:**

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

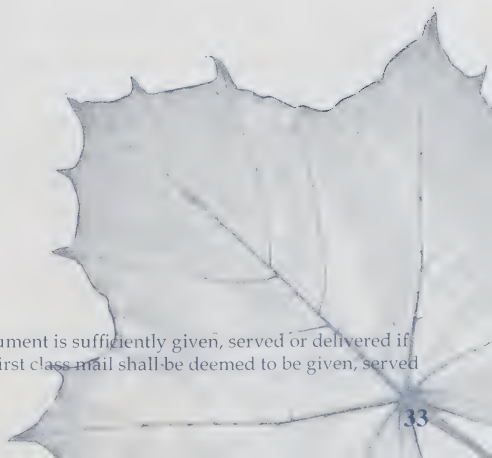
FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 9th day of February, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of m





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c.P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Proposal of the
Superintendent of Financial Services to Refuse
to Consent to a Transfer of Assets under
section 81 of the Act from the **Nacan Products
Limited Pension Plan for Former Employees
of Acheson Colloids (Canada) Ltd.,
Registration No. 0576975, to the Pension Plan
for Salaried Employees of Nacan Products
Limited and its Associated and Subsidiary
Companies, Registration No. 0286294.**

TO: **Nacan Products Limited**
60 West Drive
Brampton, Ontario
L6T 4W7

Attention: Lousie Clune, HR Specialist
Employer and Administrator

NOTICE OF PROPOSAL

I PROPOSE TO:

- 1. REFUSE TO CONSENT** to the application submitted by Nacan Products Limited (Employer and Administrator) for the transfer of assets and liabilities from Nacan Products Limited Pension Plan for Former Employees of Acheson Colloids (Canada) Ltd., Registration No. 0576975 (the "Acheson Plan") to the Pension Plan for Salaried Employees of Nacan Products Limited and its Associated and Subsidiary Companies, Registration No. 0286294 (the "Nacan Plan"), effective January 1, 2002, under section 81(5) of the *Act*.

REASONS FOR THE REFUSAL:

1. An application was made to the Superintendent of Financial Services (the "Superintendent") for consent to a transfer of assets from the Acheson Plan to the Nacan Plan.
2. Section 81 of the Act provides that no transfer of assets shall be made from one pension fund to another without the Superintendent's consent to the transfer of assets. Section 81(5) provides that:

The Superintendent shall refuse to consent to a transfer of assets that **does not protect the pension benefits and other benefits of the members and former members of the original plan** or that does not meet the prescribed requirements and qualifications. [Emphasis added]

3. Section 11(a) of the Financial Services Commission of Ontario ("FSCO") Policy A700-251 entitled "Full Asset Transfers under Section 81 – Superintendent's Consent Required", effective as of October 29, 1996, provides that:

The Superintendent may decide that the benefits are not protected where:

- (a) the transfer ratio of the importing plan is less than the highest transfer ratio of the exporting plans, and is less than 1.0;
4. The Actuarial Valuation Report as of January 1, 2002 shows that, on an accrued basis, the Acheson Plan (which is the

exporting plan) has a surplus of \$214,946 (the difference between the actuarial liabilities of \$836, 228 and the actuarial value of assets of \$1,051, 174). It also shows that the Acheson Plan has no solvency deficiency. The Report shows that the Acheson Plan is fully funded for accrued benefits on both an ongoing basis and a solvency basis. Therefore, in the event of a full wind up, there would be sufficient assets in the pension fund of the Acheson Plan to pay all benefits provided for under the Acheson Plan.

5. The "Plan Merger Actuarial Valuation Report" as of January 1, 2002 shows that the Nacan Plan (which is the importing plan) has an unfunded actuarial liability of \$3,102,021 (the difference between the actuarial liabilities of \$25,557,192 and the actuarial value of assets of \$22,455,171). It shows that the Nacan Plan has a solvency deficiency of \$2,084,032. Therefore, in the event of a full wind up, there would not be sufficient assets in the pension fund of the Nacan Plan to pay all benefits provided for under the Nacan Plan.
6. The Actuarial Valuation Report as of January 1, 2002 shows that the transfer ratio of the Acheson Plan is 1.00. The Plan Merger Actuarial Valuation Report shows that the transfer ratio of the Nacan Plan is 0.773.
7. The Plan Merger Actuarial Valuation Report reveals that the transfer ratio of the merged plan (the importing plan), if there was to be an asset transfer, would be 0.786. Thus the transfer ratio of the importing plan is less than the highest transfer ratio of the exporting plans and is less than 1.0. Accordingly, as of January 1, 2002, in the event of a full wind-up, there would be insufficient assets in the pension fund of the merged plan to pay all the benefits provided for under the merged plan.
8. The Superintendent asked Nacan Products Limited, through its actuary, to address the Superintendent's concern that the pension and other benefits of the members and former members of the exporting plan (the Acheson Plan) would not be protected if there was to be an asset transfer, in a letter dated August 28, 2003. Specifically, the Superintendent asked the actuary to demonstrate how the benefits would be protected under the circumstances or provide the Superintendent with its proposed corrective actions to remedy this situation.
9. In its response dated October 20, 2003, Nacan Products Limited does not demonstrate how the benefits would be protected under the circumstances and does not propose any action that would ensure that in the event of a full wind-up there would be sufficient assets in the merged plan to pay all the benefits provided for under the Acheson Plan. Further, its opinion that the merger would contribute and enhance the protection and security of the pension plan benefits for all Nacan and Acheson plan members because (1) the merged plan would benefit from lower investment management, administration and consulting costs; and (2) with a larger and stronger asset base the merged plan could take advantage of wider range of investments in order to maximize its growth and earnings potential, is not sufficient. These reasons do not provide any assurance that the



pension and other benefits of the members and former members of the exporting plan (the Acheson Plan) provided under the Acheson Plan would be protected in the event of a full wind up of the merged plan.

10. Therefore, the Superintendent proposes to refuse to consent to the transfer of assets from the Acheson plan to the Nacan Plan under section 81(5) of the Act.
11. Such further and other reasons as may come to may attention, including any issues that may arise concerning the applicability of *Aegon Canada Inc. and ING Canada Inc.* (2003) 38 C.C.P.B. 1 (Ontario Court of Appeal).

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY REFUSE TO CONSENT TO THE ASSET TRANSFER AS PROPOSED IN THIS NOTICE.

DATED at Toronto, Ontario, this 13th day of February, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act*, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by regular mail and any document sent by regular mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "PBA");

AND IN THE MATTER OF a Proposal of
the Superintendent of Financial Services to
Refuse to Make an Order under section 87(1)
of the *PBA* relating to the **CCSI Technology
Solutions Corp. Retirement Program**,
Registration Number 0546101

TO: **Blair Smears**
46 Thurston Road
Toronto, ON M4S 2V7

Applicant

AND TO: **CCSI Technology Solutions
Corp**
c/o CompuCom Systems, Inc.
7171 Forest Lane
Dallas, TX 75230

Attention: Cheryl Graham
Manager, Benefits

**Administrator of the
Pension Plan**

NOTICE OF PROPOSAL

**I PROPOSE TO REFUSE TO MAKE AN
ORDER** that the Administrator of the CCSI
Technology Solutions Corp. Retirement
Program, Registration Number 546101
(the "Plan") (formerly known as the GE IT
Solutions Inc. Retirement Program), pay an
amount equal to the commuted value of the
deferred pension to the Applicant's retirement
account.

REASONS FOR THE REFUSAL:

1. The Plan is a hybrid defined benefit/
defined contribution plan. However,
the Applicant's benefits are defined
contribution only.
2. Prior to January 1, 2005, GE IT Solution
Inc. ("GEIT") was the administrator and
sponsor of the Plan. Effective January 1,
2005, CCSI Technology Solutions Corp
("CCSI") became the administrator
and sponsor of the Plan pursuant to
a purchase agreement and related
agreement between, *inter alia*, GEIT and
an affiliate of CCSI. Effective February 28,
2005, the name of the Plan was changed to
its current name from GE IT Solutions Inc.
Retirement Program to reflect the change
in Plan sponsor.
3. On May 1, 2000, the Applicant became an
employee of GEIT (formerly known as GE
Capital Information Technology Solutions
Inc.). He became a member of the Plan on
May 1, 2002. The Applicant's employment
ceased on April 16, 2004. The Applicant
was paid his contributions to the Plan with
interest upon termination. He did not
receive any amount in respect of employer
contributions made on his behalf.
4. Section 37 of the *PBA* provides that a
member who is a member of a plan for "a
continuous period of at least twenty four
months" as per section 37(2)(b) qualifies
for a deferred pension under section 37(3).
The Applicant was two weeks short of the
mandatory vesting period of two years
set out under section 37 of the *PBA* at the
date of his termination. Therefore, the
Applicant is not vested in the Plan and is



not entitled to a deferred pension or the employer's contributions to the Plan made on his behalf.

5. The Applicant argues that the three weeks mandatory notice on termination under Part XV of the *Employment Standards Act*, S.O. 2000, c. 41 (the "ESA") should be included in the Applicant's credited service such that the Applicant meets the threshold for vesting set out in section 37 of the *PBA*. However, the jurisdiction of the Superintendent to make the requested order is set out in section 87 of the *PBA* and is triggered only where there is a contravention of the *PBA*, regulations or the terms of a pension plan.
6. A contravention of the *ESA* (assuming that the Applicant's position concerning the *ESA* is correct) does not constitute a contravention of the *Act*, regulations, nor the terms of the Plan. Moreover, there is no indication in the *PBA*, regulations or the Plan that the statutory notice period in the *ESA* should be included in the calculations of membership service credit for the purposes of section 37 of the *PBA*. Accordingly, the Superintendent does not have the authority to grant the requested order.
7. Finally, the Applicant relies on section 74(5) of the *PBA* which states that the *ESA*'s statutory notice period is to be included in membership for a pension plan that is "wound up in whole or in part." The Plan has not been wound up in whole or in part, therefore, section 74(5) does not apply.
8. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the *PBA*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY (REFUSE TO) MAKE THE ORDER (AS)PROPOSED IN THIS NOTICE.

DATED at Toronto, Ontario, this 16th day of February, 2006.

K. David Gordon
Deputy Superintendent, Pensions

CC: B. Lecker - Lecker & Associates
S. Kapur - McCarthy Tétrault LLP

¹ NOTE - Pursuant to section 112 of the *PBA* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal by the
Superintendent of Financial Services to make
an Order under subsection 78(4) of the *Act*
consenting to a payment out of the **Pension
Plan for Employees of Compass Group of
Canada (Beaver) Ltd.** (the Plan), Registration
Number 567354.

TO: Mr. Bruce Tavender, CA
Vice President, Finance
Compass Group Canada (Beaver) Ltd.
493 Dundas Street
London, ON N6B 1W4

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(4) of the *Act*, consenting to the payment,
out of the **Pension Plan for Employees of
Compass Group of Canada (Beaver) Ltd.,**
to **Compass Group Canada (Beaver) Ltd.,**
as at **September 29, 2005, and October 31,**
2005, in the amount of **\$741,492** at each date
plus interest to the date of payment for the
following reason and such further reasons
that may come to my attention:

1. **Compass Group Canada (Beaver) Ltd.** is
the employer as defined in the Plan.
2. As a result of a misinterpretation of
the minimum amount of monthly
special payments, contributions as set
out in the December 1, 2004, actuarial
valuation report were remitted
incorrectly. Instead of remitting the
monthly amount, the annual amount of
special payments was remitted twice

(once for August contributions and
once for September contributions).

3. Evidence of the overpayment to the fund
has been submitted to the Financial
Services Commission of Ontario.
4. The application appears to comply with
section 78(4) of the *Act*.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to subsection 89(6) of the *Act* if,
within thirty (30) days after this Notice of
Proposal is served¹ on you, you deliver to the
Tribunal a written notice that you require a
hearing.

Your written notice requiring a hearing must
be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York, ON M2N 6L9

Attention: The Registrar

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 27th day of
February, 2006

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE—PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered
if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given,
served, or delivered on the seventh day after mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the Act);

AND IN THE MATTER OF a Proposal by the
Superintendent of Financial Services to make
an Order under subsection 78(4) of the *Act*
consenting to a payment out of the **Nissan
Canada Inc. Retirement Plan** (the Plan),
Registration Number **563247**.

TO: James P. Higgins
Nissan Canada Inc.
5290 Orbitor Drive
Mississauga, ON L4W 4Z5

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(4) of the *Act*, consenting to the payment,
out of the **Nissan Canada Inc. Retirement
Plan, to Nissan Canada Inc., as at December
31, 2005** in the amount of **\$57,176** plus interest
to the date of payment for the following
reasons and such further reasons that may
come to my attention:

1. **Nissan Canada Inc.** is the employer as
defined in the Plan.
2. As a result of the new **Actuarial
Valuation Report as at December
31, 2004**, the employer contribution
requirements for the year 2005
are less than the contribution
requirements set out in the **Actuarial
Valuation Report as at December
31, 2003**. Therefore, the **2005
employer contributions made up to
September 2005 which were based
on the December 31, 2003 Actuarial
Valuation Report, exceed the amount
required to be made by the employer.**

3. Evidence of the overpayment to
the fund has been submitted to the
Financial Services Commission of
Ontario.
4. The application appears to comply
with section 78(4) of the *Act*. The
application was made in the same
fiscal year in which the overpayment
occurred.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to subsection 89(6) of the *Act* if,
within thirty (30) days after this Notice of
Proposal is served¹ on you, you deliver to the
Tribunal a written notice that you require a
hearing.

Your written notice requiring a hearing must
be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York, ON M2N 6L9

Attention: The Registrar

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 7th day of
March, 2006

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE—PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered
if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given,
served, or delivered on the seventh day after mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(4) of
the *Act* consenting to a payment out of the
**Retirement Plan for Employees of City
Welding (Sudbury) Limited** (the Plan),
Registration Number 0419994.

TO: Georges Brouillette
Owner/Operator
City Welding (Sudbury) Limited
939 Elisabetha Street
Sudbury, ON P3A 5K1

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(4) of the *Act*, consenting to the payment,
out of the Plan, to **City Welding (Sudbury)
Limited**, as at **May 31, 2005** in the amount of
\$13,750.00 plus interest to the date of payment
for the following reason and such further
reasons that may come to my attention:

1. **City Welding (Sudbury) Limited** is the
employer as defined in the Plan.
2. As a result of **contributions being made
to the Plan, as well as to two separate
Individual Pension Plans established
January 1, 2005 for Georges Brouillette
and Gisele Brouillette.**
3. Evidence of the overpayment to the fund
has been submitted to the Financial
Services Commission of Ontario.
4. There were no member submissions made
about the repayment.

¹ NOTE—PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

5. The application appears to comply with
section 78(4) of the *Act*.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to subsection 89(6) of the *Act* if,
within thirty (30) days after this Notice of
Proposal is served¹ on you, you deliver to the
Tribunal a written notice that you require a
hearing.

Your written notice requiring a hearing must
be delivered to:

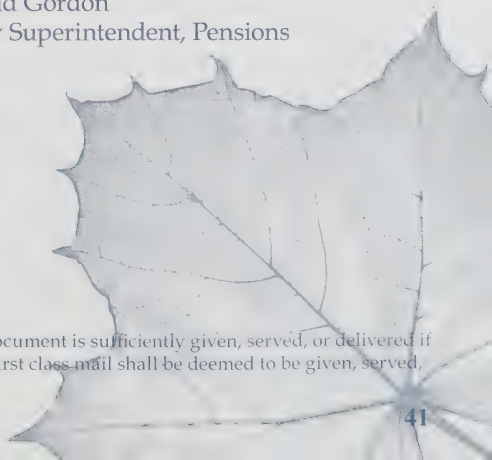
Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York, ON M2N 6L9

Attention: The Registrar

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 7th day of
March, 2006.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by the
Superintendent of Financial Services to make
an Order under subsection 78(4) of the *Act*
consenting to a payment out of the **Pension
Plan for Non-Union Employees of General
Mills Canada Corporation** (the Plan),
Registration Number **0291500**.

TO: Ms. Nancy Wood
Human Resources Manager
General Mills Canada Corporation
5825 Explorer Drive
Mississauga, ON L4W 5P6

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(4) of the *Act*, consenting to the payment,
out of the Plan, to **General Mills Canada
Corporation**, as at **July 28, 2003** in the
amount of **\$115,963.15** plus interest to the
date of payment for the following reasons and
such further reasons that may come to my
attention:

1. **General Mills Canada Corporation** is the
employer as defined in the Plan.
2. As a result of **an administrative error**, a
contribution of \$115,963.15 was made to
the Plan as at **July 28, 2003** that should
have been made to the Pension Plan for
**Midland Union Employees of General
Mills Canada Corporation**, Registration
No. 0574491.
3. Evidence of the overpayment to the fund
has been submitted to the Financial
Services Commission of Ontario.

4. There were no member submissions made
about the repayment.
5. The application appears to comply with
section 78(4) of the *Act*.

In accordance with subsection 105(1) of the
Act, an extension of the time limit under
subsection 78(4) has been given.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to subsection 89(6) of the *Act* if,
within thirty (30) days after this Notice of
Proposal is served¹ on you, you deliver to the
Tribunal a written notice that you require a
hearing.

Your written notice requiring a hearing must
be delivered to:
Financial Services Tribunal

14th Floor, 5160 Yonge Street
North York, ON M2N 6L9

Attention: The Registrar

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 8th day of
March 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE—PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if
delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served,
or delivered on the seventh day after mailing.

IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the *Act*, respecting the **Staff Pension Plan for the Employees of A. Gledhill & Son Inc.** (the "Plan") Registration Number 0942953.

TO: Melissa Lambert
Plan Design Specialist
The Manufacturers Life
Insurance Company
500 King Street North
P.O. Box 1602
Waterloo, ON N2J 4C6

Administrator

AND TO: Larry Gledhill
633 Colborne Street
London, Ontario N6A 2V3

Employer

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the *Act* that the Plan be wound up effective **February 28, 1990** for the following reasons and such further reasons that may come to my attention:

There was a cessation or suspension of employer contributions to the pension fund.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the *Act*, if, within

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

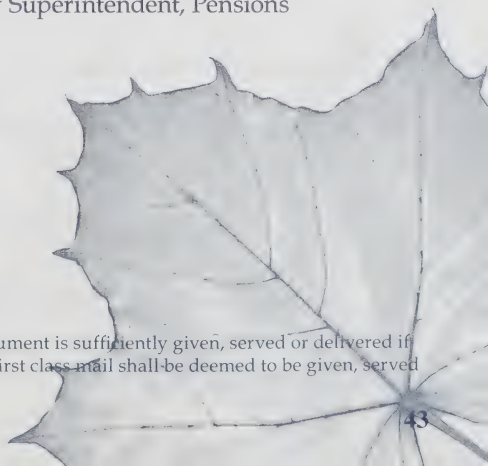
Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 20th day of March, 2006.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the *Act*, respecting the **Pension Plan for Hourly Employees of Chun King Canada Inc.** (the "Plan") Registration Number **0597450**.

TO: David R. Kearney
Principal
Morneau Sobeco Limited Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Pension Plan Administrator
Chun King of Canada Inc.
1019 Elliot Street West
Windsor, ON N9A 5Z8

Employer

AND TO: Ron Milkins
United Food and Commercial Workers Union Local 459
261 Erie Street
Leamington, ON N8H 3C4

Union Representative

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under section 69 of the *Act* that the Plan be wound up effective **December 1, 1991** and include the class of members whose employment

terminated between September 11, 1991 and December 1, 1991 for the following reasons and such further reasons that may come to my attention:

A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

All or a significant portion of the business carried on by the employer at a specific location was discontinued.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the *Act*, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE



OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 20th day of March, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the *Act*, respecting the **Registered Pension Plan for Employees of Siematic(Canada) Limited Partnership and Participating Affiliates** (the Plan) Registration Number 0923250.

TO: Audrey Humphrey
Plan Finals Associate
Sun Life Financial
227 King Street South
P.O. Box 1601 STN Waterloo
Waterloo, ON N2J 4C5

Administrator

AND TO: Lori Stotts
Administrator
Siematic (Canada) Limited Partnership
353 Manitou Drive
Kitchener, ON N2C 1L5

Employer

AND TO: Robert Bougie
Senior Vice President
Deloitte & Touche
79 Wellington Street West
Suite 1900
Toronto, ON M5K 1B9

Trustee in Bankruptcy

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under

section 69 of the *Act* that the Plan be wound up effective **May 15, 2005** for the following reasons and such further reasons that may come to my attention:

There was a cessation or suspension of employer contributions to the pension fund.

The employer failed to make contributions to the pension fund as required by this Act.

The employer is bankrupt within the meaning of the Bankruptcy and Insolvency Act (Canada).

A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the *Act*, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar



FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 20th day of March, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the *Act*, respecting the **Registered Pension Plan for Employees of Hunjan Tools & Mould Ltd. and Participating Affiliates** (the Plan) Registration Number **1045368**.

TO: Nilu Balsara
Plan Design Services
Manulife Financial
P.O. Box 396, Station Waterloo
Delivery Station -KC-6
Waterloo, ON N2J 4A9

Administrator

AND TO: Mirjana Pratnemer
Benefits Administrator
**Hunjan Tools & Mould Ltd.
and Participating Affiliates**
380 Marklano Street
Markham, ON L6C 1T6

Employer

AND TO: Anamika Gadia
KPMG Inc
199 Bay Street
Suite 3300, Commerce Court W.
Toronto, ON M5L 1B2

**Receiver
Union Representative**

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER under

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section 69 of the *Act* that the Plan be wound up effective **June 16, 2005** for the following reasons and such further reasons that may come to my attention:

There was a cessation or suspension of employer contributions to the pension fund.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the *Act*, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. **Any notice requiring a hearing shall be delivered to the:**

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, Ontario M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 24th day of March, 2006.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act* R.S.O. 1990, c. P.8, as amended (the "Act")

AND IN THE MATTER OF a Notice of Proposal issued by the Superintendent of Financial Services to order the return of assets to the **Pension Plan for the Aluminum Brick and Glass Workers International Union Retirement & Pension Plan Registration No. 0009838** from the **United Steel Workers of America (International Union) Staff Pension Plan Registration No. 0008964** under section 81(6) of the *Act*;

AND IN THE MATTER OF a Notice of Proposal issued by the Superintendent of Financial Services to order the filing of a report on the actuarial valuation of the assets transferred from the **Pension Plan for the Aluminum Brick and Glass Workers International Union Retirement & Pension Plan Registration No.0009838** to the **United Steel Workers of America(International Union) Staff Pension Plan Registration No. 0008964**;

AND IN THE MATTER OF a Notice of Proposal issued by the Superintendent of Financial Services to order the filing of the Financial Statements, Annual Information Returns, Pension Benefits Guarantee Fund assessment certificates and Financial Statements for the **Pension Plan for the Aluminum Brick and Glass Workers International Union Retirement & Pension Plan Registration No.0009838** under the *Act* and Regulation 909 R.R.O. 1990.

TO: **Aluminum Brick Glassworkers**
3362, Hollenberg Dr.,
Bridgeton USA, MO
63044-2477

Attention: Mr John Murphy
Director

AND TO: **Sack Goldblatt Mitchell LLP**
20 Dundas Street West,
Suite 1130, P.O. Box 180
Toronto, Ont. M5G 2G8

**Attorneys at law for United
Steel Workers of America
International Union**

NOTICE OF PROPOSALS

I PROPOSE TO:

1. **ORDER** that the administrator of the Aluminum Brick and Glass Workers International Union Retirement & Pension Plan Registration No.0009838 (the "ABG Plan") file a report on the actuarial valuation for the assets transferred from the ABG Plan to the United Steel Workers of America (International Union) Staff Pension Plan Registration No. 0008964 ("USWA Staff Plan") within 90 days from the date of this proposal.
2. **ORDER THAT** the assets transferred from the ABG Plan to the USWA Staff Plan be returned to the ABG Plan together with the accrued interest within 90 days from the date of this proposal pursuant to section 81(6) of the *Act*; and
3. **ORDER THAT** the Financial Statements due September 30, 2001, September 30, 2002, September 30, 2003, September 30, 2004 and September 30, 2005; the Annual Information Returns due at December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004 and December 30,

2005; the Pension Benefits Guarantee Fund assessment certificates due December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004, December 31, 2005; and the Actuarial Reports due January 1, 2001 and January 1, 2004, be filed within 90 days from the date of this proposal.

REASONS FOR THE PROPOSALS:

1. The ABG Plan is a defined benefit plan. It was submitted for registration with the predecessor of the Financial Services Commission of Ontario ("FSCO") in 1967, effective July 28, 1964. The ABG Plan was registered with Canada Customs and Revenue Agency ("CRA") effective January 28, 1964, however, it is now listed by CRA as having been abandoned. Prior to April 1, 2000 the Plan complied with the various filing requirements (including the Annual Information Returns, Financial Statements, Pension Benefits Guarantee Fund assessment certificates and Actuarial Reports) under the *Act*.
2. Effective January 19, 1997, Aluminum Brick and Glass Workers Union ("ABGWU") merged with the United Steelworkers Union of America International Union ("USWA") and became part of USWA. Both unions at the time of the merger maintained separate pension plans, the ABG Plan and the USWA Staff Plan respectively. The active members of ABGWU became employees of USWA as of the merger date, and also became members of the USWA Staff Plan for the accrual of future service credits only. The USWA Staff Plan has members in other provinces in Canada in addition to Ontario.
3. The assets of the trust funds of both the ABG Plan and the USWA Staff Plan are situated and maintained in the United States of America ("U.S.A.") The trustees of both pension plans are located in the U.S.A. and are subject to the laws of the U.S.A.
4. By a resolution dated March 9, 2000, the USWA and the Trustees of the ABG Plan agreed to merge the ABG Plan with the USWA Staff Plan effective April 1, 2000. At the time of the merger of the plans, the trust funds of both plans were subject to regulation in the U.S.A., under the *Employee Retirement Income Security Act* ("ERISA") and the Internal Revenue Code ("IRC"). The merger of the plans was approved in the U.S.A. by the IRC by determination letter dated July 25, 2002.
5. No application was made to the Superintendent for consent to the merger of the ABG Plan and the USWA Staff Plan.
6. FSCO wrote the administrator of the ABG Plan in relation to its delinquency in filing the Actuarial Reports, Annual Information Returns, Pension Benefits Guarantee Fund assessments certificates, Financial Statements and the submission of the relevant documents in relation to the merger of the ABG Plan with the USWA Staff Plan in compliance with the requirements under the *Act* and FSCO Policy No. A700-251 concerning the full transfer of assets from one pension plan to another.
7. In response to FSCO's request, the lawyers for the USWA, by letter dated March 10, 2004, submitted that FSCO has no jurisdiction over the trust funds and consequently has no jurisdiction over any

asset transfer between the two trust funds of the ABG Plan and the USWA Staff Plan for the following reasons: the transfer was between two foreign trust funds; neither of the pension plans were registered with CRA; both pension plans qualify as foreign unregistered plans for the purposes of CRA; and all the assets of the trust funds of both plans were situated in the U.S.A. at the time of the merger and continue to be held outside of Canada.

8. The Superintendent's authority to regulate a pension plan is set out in section 3 of the *Act*. Under section 3, that authority is determined by whether or not a plan member is employed in Ontario and the plan falls within the definition of a "pension plan" for the purposes of the *Act*.
9. The concept of the "place of employment" is set out in section 4 of the *Act* which provides as follows:
 - 4—(1) For the purposes of this *Act*, a person shall be deemed to be employed in the province in which the establishment of his or her employer is located and to which the person is required to report to work
 - (2) A person who is not required to report for work at an establishment of his or her employer shall be deemed to be employed in the province in which is located the establishment of his or her employer from which the person's remuneration is paid.
10. It has not been established in this case that the members of the ABG Plan are not employed in Ontario for the purposes of the *Act*.
11. A "pension plan" is defined in section 1 of the *Act* as a plan organized and administered to provide pensions for employees and sets out a list of plans that are exempted from the *Act*. Pension plans that are registered under the *Act* and also registered in foreign jurisdiction are not exempted from the *Act*. The fact that the ABG Plan is also registered in the U.S. does not exempt it from the provisions of the *Act*. As indicated above, the ABG plan has been registered under the *Act* since 1967 and all the relevant filings were done prior to April 1, 2000.
12. Section 80(4) or 81(4) of the *Act* provides that no transfer of assets shall be made from one pension fund to another pension fund without the prior consent of the Superintendent. Financial Services Commission of Ontario Policy A700-251 ("FSCO Policy") requires that a formal application be made for the Superintendent's consent. It also sets out the necessary documents, including an actuarial valuation report, that must be submitted in support of the application and stipulates the guidelines the Superintendent will follow in determining whether to consent to the transfers of assets from one pension fund to another.
13. No application was submitted on behalf of the ABG Plan for the Superintendent's consent for the transfer of assets from the ABG Plan to the USWA Staff Plan. The pension fund of the ABG Plan was therefore, transferred to the pension fund of the USWA Staff Plan without the consent of the Superintendent in contravention of section 81(4) of the *Act* and FSCO Policy A 700-251.

14. Under section 81(6) of the *Act* the Superintendent by order may require a transferee to return to the pension fund assets, with interest, transferred without the prior consent of the Superintendent. Since the assets were transferred from the ABG Plan to the USWA Staff Plan without the consent of the Superintendent, the Superintendent has the authority to order a return of the assets with interest to the ABG Plan fund.
15. Since April 1, 2000 no financial statements, actuarial reports, Pension Benefits Guarantee Fund assessment certificates, or annual information returns have been filed with FSCO in relation to the ABG Plan.
16. Under section 76(1) Regulation 909, RRO 1990 (the "Regulation"), a pension plan is required to file a financial statement for the pension fund no later than 6 months after the end of a plan's fiscal year. The ABG Plan has not filed financial statements for the following periods: April 1, 2000 to March, 31, 2001; April 1, 2001 to March, 31, 2002; April 1, 2002 to March, 31, 2003, April 1, 2003 to March, 31, 2004 and April 1, 2004 to March, 31, 2005 at the due dates as required by the Regulation.
17. Under section 20 of the *Act* and section 18(1) of the Regulation a pension plan is required to file an annual information return no later than 9 months after the end of a plan's fiscal year. The ABG Plan has not filed annual information for the following periods: April 1, 2000 to March, 31, 2001; April 1, 2001 to March, 31, 2002; April 1, 2002 to March, 31, 2003; April 1, 2003 to March, 31, 2004 and April 1, 2004 to March, 31, 2005 on the due dates as required by the Regulation.
18. Pursuant to section 18(7) of the Regulation an administrator is required to file, as an attachment to the annual information return, a Pension Benefits Guarantee Fund assessment certificate. The ABG Plan has not filed Pension Benefits Guarantee Fund certificates for the following periods: April 1, 2000 to March, 31, 2001; April 1, 2001 to March, 31, 2002; April 1, 2002 to March, 31, 2003, April 1, 2003 to March, 31, 2004 and April 1, 2004 to March, 31, 2005 on the due dates as required by the Regulation.
19. Under section 14(10) of the Regulation the administrator of a pension plan shall file an actuarial valuation report required under the Regulations within 9 months of the valuation date. No actuarial report has been filed in respect of the ABG Plan for the period April 1, 2000, to March 31, 2003 as required by the Regulation.
20. Therefore the Superintendent proposes to order the administrator of the ABG Plan to:
 - i. file a report on the actuarial valuation in respect of the transfer of assets from the ABG Plan to the USWA Staff Plan within 90 days from the date of this proposal;
 - ii. return the assets transferred from the ABG Plan to the USWA Staff Plan with interest pursuant to section 81(6) of the *Act* within 90 days from the date of this proposal; and
 - iii. file the Financial Statements, the Actuarial Report, Pension Benefit Fund assessment certificates and Annual Information Returns for the periods stipulated above, within 90 days from the date of this proposal.



21. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
North York, Ontario
M2N 6L9

Attention: The Registrar

For further information, contact the Registrar of the Tribunal by phone at 416-226-7752, or toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY REFUSE TO CONSENT TO THE TRANSFER OF ASSETS AND I MAY REFUSE TO REGISTER THE AMENDMENT, AS PROPOSED IN THIS NOTICE OF PROPOSAL.

DATED at Toronto, Ontario, April 6, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ PURSUANT TO section 112 of the *Act*, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c.P.8, as amended (the “*Act*”);

AND IN THE MATTER OF the Wind-Up
Actuarial Valuation Report as at March 31,
2003 dated February 28, 2004 filed in respect
of the **Participating Co-operatives of Ontario
Trusteed Revised Pension Plan, Registration
Number 0345736**, an Amendment to the Plan
dated February 27, 2004 and effective March
31, 2003 and a Notice of Wind Up dated April
1, 2003 and effective March 31, 2003.

TO: **The Board of Trustees of the
Participating Co-operatives
of Ontario Trusteed Revised
Pension Plan**
6790 Century Avenue, Suite 201
Mississauga, ON L5N 2V8

Attention: Michael Barrett
Chair, The Board of Trustees of
the Participating Co-operatives
of Ontario Trusteed Revised
Pension Plan

Applicant and Administrator

AND TO: See Schedule “A” for list

Employers

**NOTICE OF PROPOSAL TO REFUSE TO
REGISTER AN AMENDMENT,
NOTICE OF PROPOSAL TO MAKE THREE
ORDERS
NOTICE OF PROPOSAL TO REFUSE TO
APPROVE A WIND UP REPORT
NOTICE OF PROPOSAL TO ORDER A
NEW WIND UP REPORT**

I PROPOSE TO:

- (a) **REFUSE TO REGISTER AN
AMENDMENT** to the Participating Co-
operatives of Ontario Trusteed Revised
Pension Plan, Registration Number
0345736 (the “Plan”) dated February 27,
2004 and effective March 31, 2003 (the
“Amendment”) to the extent that the
Amendment reduces benefits accumulated
prior to March 31, 2003, pursuant to
section 18(1)(d) of the *Act*;
- (b) **ORDER** that the Board of Trustees
of the Participating Co-operatives of
Ontario Trusteed Revised Pension
Plan (the “Trustees”) refrain from
administering the Plan in accordance
with the Amendment to the extent
that the Amendment reduces benefits
accumulated prior to March 31, 2003;
- (c) **ORDER**, pursuant to sections 75 and 87
of the *Act* that the employers participating
in the Plan (the “Employers”) pay, in the
prescribed manner and at the prescribed
times, into the fund for the Plan (the
“Fund”), such amounts so that the total of
the amounts contributed by all Employers on
a joint and several basis equals the sum of:
 - (1) the total of all payments that under the
Act, Regulations and the Plan are due
or that have accrued and that have not
been paid into the Fund; AND
 - (2) the amount by which:
 - (i) the value of the pension
benefits accrued and vested
under the Plan, and

- (ii) the value of benefits accrued resulting from the application of section 39 (3) (50 per cent rule) and section 74 of the *Act*,

exceed the value of the assets of the Fund;

- (d) **ORDER**, under section 87 of the *Act*, that, consequent upon a finding that the Employers are required to contribute to the Plan under section 75 of the *Act*, the Trustees refrain from reducing pension payments to retired members (or their surviving spouses, if applicable) due on and after April 1, 2003, and refrain from reducing pension payments to new retired members due on and after April 1, 2003 and that such reductions implemented thus far be reversed by refunding the difference between the full benefit entitlement under the Plan and the reduced amounts actually paid with interest;
- (e) **REFUSE TO APPROVE A WIND UP REPORT** filed by the Trustees and dated February 28, 2004 with respect to a full wind up of the Plan effective March 31, 2003, pursuant to section 70(5) of the *Act*; and
- (f) **ORDER**, under section 88 of the *Act*, that the Trustees prepare and file a new wind up report that addresses the defects set out in this proposal and, specifically, contains:
 - i. a statement of benefits to be provided under the pension plan to members, former members and other persons without regard to the reductions contemplated in

the Amendment and Notice;

- ii. a distribution scheme for the assets of the Plan without regard to the benefit reductions set out in the Amendment and Notice; and
- iii. provision for the fact that the Employers are required to make additional contributions under the *Act*.

I PROPOSE TO MAKE THESE REFUSALS AND ORDERS FOR THE FOLLOWING REASONS:

1. The Plan is a multi-employer pension plan ("MEPP") registered under the *Act*, which is administered by the Trustees and provides benefits with respect to employment in Ontario.
2. The Trustees were of the view that the Plan was no longer financially viable and therefore adopted the Amendment on February 27, 2004 terminating the Plan effective March 31, 2003.
3. The Amendment also contains certain decreases to benefits accumulated prior to the effective date of the Amendment.
4. There are insufficient assets in the Plan to pay the pension benefits and other benefits set out in the Plan both before and after the benefit decreases set out in the Amendment. No Employer is currently making payments in accordance with section 75 of the *Act* in order to reduce or eliminate the unfunded liability as at March 31, 2003.
5. On or about February 28, 2004, the

Trustees filed a Wind-Up Actuarial Valuation as at March 31, 2003 (the "Report") which reflects, in part, the decreases to benefits accumulated prior to the effective date of the Amendment and the fact that the Trustees anticipate that no payments will be made under section 75 of the *Act*.

(a) REFUSAL TO REGISTER AMENDMENT

6. However, from the inception of the Plan, the Plan text prohibited amendments to the Plan that reduced benefits accumulated prior to the date of the amendment. In the current Plan text, section 17(a) states that "[s]ubject to subsection (e) no amendment or discontinuance of the Plan shall reduce the benefits accumulated prior to such amendment or discontinuance ...".
7. Section 17(e) of the Plan text does permit the reduction of benefits previously accumulated but only in the situation where there is a cessation of the participation of a single Employer and the reductions are to benefits of the members employed by the departing Employer. Section 17(e) does not relate to the discontinuance of the whole Plan which is expressly covered by the prohibition against the reduction of accumulated benefits set out in section 17(a). The current situation is a full wind up of the Plan and is a discontinuance within the meaning of section 17(a) rather than the departure of a single Employer that would be covered by section 17(e).
8. The Amendment reduces benefits accumulated prior to the effective date of the Amendment. Therefore, the Amendment, to the extent that it reduces accumulated benefits, is invalid and of no force because it does not fall within the scope of the amendment power in the Plan text.
9. Section 14(2) of the *Act* exempts MEPPs established pursuant to a collective agreement or a trust agreement from the prohibition against the reductions in accrued benefits set out in section 14(1) of the *Act*. Section 19(3) of the *Act* requires that the administrator administer the Plan in accordance with the filed Plan documents. Section 5 of the *Act* states that the *Act* "shall not be construed to prevent the registration or administration of a pension plan and related pension fund that might provide pension benefits or ancillary benefits more advantageous to members than those required by" the *Act* and regulations. Accordingly, section 14(2) of the *Act* does not have application to the current circumstances because the Plan documents provide a more advantageous regime respecting Plan amendments than the *Act*.
10. Section 18(1)(d) of the *Act* states that the Superintendent may refuse to register an amendment to a pension plan "if the pension plan with the amendment would cease to comply with" the *Act* and Regulation 909, R.R.O. 1990 (the "Regulation"). The Plan with the Amendment, to the extent that the Amendment reduces benefits accumulated prior to the effective date of the Amendment, contravenes the terms of the Plan and is, therefore, contrary to the *Act* and Regulation by virtue of section

19(3) of the *Act*. The Superintendent therefore proposes to refuse to register the Amendment to the extent that the Amendment reduces benefits accumulated prior to its effective date (March 31, 2003).

(b) ORDER TO REFRAIN FROM ADMINISTERING THE PLAN IN ACCORDANCE WITH AMENDMENT

11. Section 87 of the *Act* authorizes the Superintendent by order to require that an administrator "take or refrain from taking any action in respect of a pension plan or a pension fund" if the Superintendent is of the opinion, upon reasonable and probable grounds, that a pension plan is not being administered in accordance with the *Act*, the Regulation or the pension plan.

12. For the reasons set out above, the Amendment, to the extent that it reduces accumulated benefits, is invalid and unenforceable. Therefore, the Plan is not being administered in accordance with the valid and enforceable terms of the Plan text (as required by section 19(3) of the *Act*) to the extent that the Trustees have implemented the accumulated benefit reductions contained in the Amendment. The Superintendent, therefore, proposes to order under section 87 of the *Act* that the Trustees refrain from administering the Plan in accordance with the Amendment to the extent that the Amendment reduces benefits accumulated prior to March 31, 2003.

(c) ORDER TO MAKE PAYMENTS UNDER SECTION 75

13. Section 75 of the *Act* states:

75. (1) Where a pension plan is wound up in whole or in part, the employer shall pay into the pension fund,

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund; and
- (b) an amount equal to the amount by which,
 - (i) the value of the pension benefits under the pension plan that would be guaranteed by the Guarantee Fund under this Act and the regulations if the Superintendent declares that the Guarantee Fund applies to the pension plan,
 - (ii) the value of the pension benefits accrued with respect to employment in Ontario vested under the pension plan, and
 - (iii) the value of benefits accrued with respect to employment in Ontario resulting from the application of subsection 39 (3) (50 per cent rule) and section 74, exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario.

14. Thus employers participating in a pension plan, which is a MEPP, are required under section 75 of the *Act* to pay into a pension plan that is to be wound up amounts that are due or have accrued and that have not been paid into the pension plan in addition to those amounts by which the liabilities for vested accrued benefits under the plan and under sections 39(3) and 74 of the *Act* exceed the assets in the pension plan.
15. While section 5 of the *Act* states that the *Act* "shall not be construed to prevent the registration or administration of a pension plan and related pension fund that might provide pension benefits or ancillary benefits more advantageous to members than those required by" the *Act* and Regulation, section 19 makes it clear that where the terms of the Plan do not meet the minimum standards in the *Act* or Regulation the terms of the *Act* and Regulation govern. Consequently, the requirements of section 75 override any provisions to the contrary contained in the Plan text or the trust agreement for the Plan which may purport to limit the contribution obligations of the Employers.
16. In this case, owing to the fact that the Plan (for the reasons set out above) does not permit the reduction of accrued benefits, there is a liability that the Employers are required under section 75 of the *Act* to jointly make contributions to eliminate. Such payments are required to be made "in the prescribed manner and at the prescribed times" under section 75(2) of the *Act*. The Superintendent, therefore, proposes to order that the Employers make payments on a joint and several basis so that the amounts contributed by all the Employers add up to the amounts required under section 75 of the *Act*, in the prescribed manner and at the prescribed times.
- (d) ORDER TO ADMINISTER THE PLAN WITHOUT REDUCING PENSION PAYMENTS TO RETIRED MEMBERS OR THEIR SURVIVING SPOUSES**
17. On or about April 1, 2003, the Trustees gave Notice of Wind Up (the "Notice") to the members and former members of the Plan effective March 31, 2003. The Notice provided that "pension payments to retired members (or their surviving spouses, if applicable) due on and after April 1, 2003 will be reduced in accordance with the above estimated wind up funded ratio of 50%". The Notice also provided that "new retirements after the wind up date will also be reduced to reflect the estimated wind up funded ratio of 50%".
18. The reductions referred to in the Notice are in addition to the reductions set out in the Amendment, are not the subject of a separate amendment to the Plan and, even if they were, such a separate amendment would be invalid for the reasons set out above in section (a) of this Notice of Proposal.
19. Neither the *Act* nor Regulation permit the reductions contemplated in the Notice. Section 77 of the *Act* states that "where money in the pension fund is not sufficient to pay all the pension benefits and other benefits on the wind up of the pension plan in whole or in part, the pension benefits and other benefits shall be reduced in the prescribed manner."

20. Section 29(9) of the Regulation prescribes the manner in which benefits are to be reduced where the assets in a pension plan are not sufficient to pay the benefits in the pension plan. Where payments are being made in accordance with section 75 of the *Act*, section 29(9)(a) states that pension benefits may only be reduced in respect of persons who had not vested under the terms of the pension plan. The ability to reduce benefits of vested members and former members under section 29(9)(b) only applies if payments in accordance with section 75 are not being made.

21. In this case, for the reasons set out above, the Employers are required to make contributions under section 75 of the *Act*. Thus, there is no authority under the section 29(9)(b) of the Regulation or otherwise in the *Act* or Regulation to reduce pensions in pay as contemplated in the Notice.

22. For the reasons set out above, the reductions contemplated in the Notice do not comply with the *Act*, Regulation or the terms of the Plan.

23. Therefore, the Superintendent proposes to order under section 87 of the *Act*, that, consequent upon a finding that the Employers are required to contribute to the Plan under section 75 of the *Act*, the Trustees refrain from reducing pension payments to retired members (or their surviving spouses, if applicable) due on and after April 1, 2003, and refrain from reducing pension payments to new retired members due on and after April 1, 2003 which reductions are contemplated in the Notice and that such reductions already implemented

be reversed by refunding the difference between the full benefit entitlement under the Plan and the reduced amounts actually paid with interest.

(e) REFUSAL TO APPROVE WIND UP REPORT

24. Section 70(5) of the *Act* states that the Superintendent may "refuse to approve a wind up report that does not meet the requirements of this *Act* and the regulations or that does not protect the interests of the members and former member of the pension plan." The Report does not meet the requirements of the *Act* and Regulation for the following reasons:

(a) The Report does not comply with section 19(3) of the *Act* because administering the Plan, including the distribution of assets on wind up, in accordance with the invalid benefit reductions in the Amendment and Notice constitutes a contravention of the requirement to administer the Plan in accordance with the valid and enforceable filed Plan documents, contrary to section 19(3) of the *Act*; and

(b) The Report does not comply with the *Act* because it is premised on the fact that the Employers on the effective date of the wind up are not required to make further contributions to the Plan under the *Act*. The Report, therefore, does not make provision for the distribution of the assets of the Plan as required by section 70(1) of the *Act* because it does not provide for the distribution of the contributions owing under section 75 of the *Act*.

25. The Report does not protect the interests of the members and former members because the distribution of assets in the Plan is based on the benefit reductions contained in the Amendment and the Notice which are not valid and does not reflect the fact that additional employer contributions are required under section 75 of the *Act*.

(f) ORDER TO FILE NEW REPORT

26. Under section 88 of the *Act*, the Superintendent by order may require an administrator to prepare a new report using "assumptions or methods or both" as the Superintendent specifies if the "assumptions or methods used in the preparation of a report required under this *Act* or the regulations in respect of a pension plan are inappropriate for a pension plan" or where the report "does not meet the requirements and qualifications of this *Act*, the regulations or the pension plan."

27. For the reasons set out herein, the Report does not meet the requirements and qualifications of the *Act*, the Regulation and the Plan and the assumptions and methods used in the preparation of the Report are inappropriate for the Plan. The Superintendent, therefore, proposes to order that the Trustees prepare and file a new wind up report which contains:

- i. a statement of benefits to be provided under the pension plan to members, former members and other persons without regard to the reductions contemplated in the Amendment and Notice;

- ii. a distribution scheme for the assets of the Plan without regard to the benefit reductions set out in the Amendment and Notice; and
- iii. provision for the fact that the Employers are required to make additional contributions under the *Act*.

28. The Superintendent has previously raised additional issues in correspondence with the actuary for the Plan and the Trustees concerning the contents of the Report which issues only arise if the Plan is not fully funded. Those issues relate to the:

- (a) computation of the refund of excess contributions made on or after January 1, 1987 owing under section 39(4) of the *Act*; and
- (b) computation of the balance of commuted value transfers for members who terminated employment after the point when the transfer ratio for the Plan fell below one and elected commuted value transfers under section 42(1) of the *Act*.

29. The Superintendent reserves the right to pursue these issues and seek consequent additional changes to the Report should this matter be the subject of a hearing before the Financial Service Tribunal (the "Tribunal") and should the Tribunal decide that the position regarding the requirement for the Employers to make additional contributions as set out in this Notice of Proposal is incorrect and, for this reason or any other reason, the Plan is not fully funded.



30. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to s. 89(6) of the *Act*. To request a hearing, you must deliver, to the Tribunal, a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY CARRY OUT THE REFUSALS AND MAKE THE ORDERS AS PROPOSED IN THIS NOTICE.

DATED at Toronto, Ontario, this 12th day of April, 2006.

K. David Gordon
Deputy Superintendent, Pensions

c.c. Mr. Joseph F. Nunes, Actuarial
Solutions Inc.
Mr. Peter Gorham, Morneau Sobeco

Ms. Nancy Fletcher, Participating Co-operatives of Ontario
Mr. Kem Majid, Watson Wyatt
Mr. Michael Penny, Torys LLP
Mr. Michael Mazzuca, Koskie
Minsky LLP
Mr. Andrew Lokan, Palairé Roland
Rosenberg Rothstein LLP
Ms. Peggy A. McCallum, Fasken
Martineau DuMoulin LLP
Ms. Dale Leake & Email Group
Mr. Lorne Reid
Mr. Eric Taylor
Mr. Tom Perkes
Mr. Roch Lalonde
Mr. Graham Lightfoot
Ms. Gertie Blake
Mr. Michel Bourgon
Mr. Brian Hancock
Ms. Miriam A. Preszler
Ms. Doreen Amos
Mr. Jon Lazarus

SCHEDULE "A"

1. Cochrane Farmers Co-op, att'n: Mr. Alphonse Genier, Mr. Paolo Belzile
2. Glencoe Country Depot, att'n: Mr. Darin Kulich
3. Gay Lea Foods Co-operative Limited, att'n: Mr. Stu Steckle, Mr. Andrew MacGillivray
4. Manitoulin Livestock Co-op, att'n: Mr. John McNaughton, Mr. Donald O'Connor
5. Madoc Co-operative/Warkworth Co-op, att'n: Mr. Murray Lobb, Mr. Harry Scanlan
6. Orford Co-operative Ltd., att'n: Ms.

¹ Note - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

Linda Glassford, Mr. Kim Fysh, Mr. Jim Campbell

7. Pelee Island Co-op, att'n: Mr. Wilfred Botham, Mr. Ford Crawford,
8. Huron Bay Co-op, att'n: Mr. Jeff Hurst, Mr. Murray Vincent
9. Waterloo-Oxford Co-op, att'n: Mr. Murray Schnarr, Mr. Colin Smith
10. Sunderland District Co-op, att'n: Mr. Ted Smith, Mr. Clare Hayes
11. Ontario Federation of Agriculture, att'n: Mr. Ron Bonnett, Mr. Neil Currie
12. Warkworth District Co-op, att'n: Mr. David Glover
13. Kingston Farm & Garden, att'n: Mr. Bill Havekes
14. Green Lea Ag Centre Inc., att'n: Mr. Scott McLean, Mr. Al McLean,
15. Simcoe District Co-op, att'n: Mr. Glen Vanderhaeghe, Mr. Ken O'Brien
16. Country Depot, att'n: Mr. Harvi Wallace, Ms. Angie Small
17. North Wellington Co-op, att'n: Mr. Kelly Boyle, Mr. Nelson Sputh
18. Inland Co-operative Inc., att'n: Mr. Bill Arthur, Mr. Jaye Atkins
19. Lucknow District Co-op, att'n: Mr. Al Scott, Mr. Doug Miller



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(4) of
the *Act* consenting to a payment out of the
**Retirement Plan for Salaried Employees of
Indalex Limited and Associated Companies**
(the Plan), Registration Number **0533646**;

TO: Wesley Ross
Indalex Limited
706 South State Street
Girard OH 44420
USA

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under
s. 78(4) of the *Act*, consenting to the payment,
out of the Plan, to **Indalex Limited**, as at
October 18, 2005 in the amount of **\$456,166**
plus interest to the date of payment for the
following reason and such further reasons
that may come to my attention:

1. **Indalex Limited** is the employer as
defined in the Plan.
2. As a result of **an administrative error
on the part of Indalex Limited, the 2005
Contribution for the Retirement Plan
for the Executive Employees of Indalex
Limited and Associated Companies was
deposited into the pension fund of the
Plan.**
3. Evidence of the overpayment to the fund
has been submitted to the Financial
Services Commission of Ontario.

4. The application appears to comply with
section 78(4) of the *Act*.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to subsection 89(6) of the *Act* if,
within thirty (30) days after this Notice of
Proposal is served¹ on you, you deliver to the
Tribunal a written notice that you require a
hearing.

Your written notice requiring a hearing must
be delivered to:

Financial Services Tribunal
14th Floor, 5160 Yonge Street
North York, ON M2N 6L9

Attention: The Registrar

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 27th day of
April, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE—PURSUANT to section 112 of the *Act* any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.



IN THE MATTER OF the *Pension Benefits Act*
R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER OF a Notice of
Proposal issued by the Superintendent of
Financial Services to the Administrator of the
**Stelpipe Ltd. Retirement Plan for Salaried
Employees, Registration No. 1017177**, under
section 40(2) of the *Act*.

TO: **Stelco Inc.**
386 Wilcox Street
P.O. Box 2030
Hamilton, ON L8N 3T1

Attention: **Mr. Mario DeMarco**
Director, Compensation
Services

AND TO: **Hicks Morley Hamilton**
StewartStorie LLP
Toronto-Dominion Tower,
30th Floor
Box 371 T-D Centre
Toronto, Ontario M5K 1K8

Attention: **Ms. Rachel M. Arbour**
Attorneys at law for the
Administrator of Stelpipe Ltd.
Retirement Plan for Salaried
Employees

AND TO: **Mr. Frank Reid**
18 Wychwood Road
Welland, Ontario L3C 5V3

NOTICE OF PROPOSALS

I PROPOSE TO:

1. **ORDER** that the administrator of
Stelpipe Ltd. Retirement Plan for Salaried
Employees Registration No. 1017177 (the

"Stelpipe Plan") provide Mr. Frank Reid
(the "Applicant") with the difference
between the commuted value of his
pension benefit which he received from
the Stelpipe Plan on or about March 21,
2003 in the amount of \$205,595.16, and the
revised commuted value amount inclusive
of early retirement subsidies of \$337,093.26
together with interest from August 4, 2000,
the date of termination of the Applicant's
employment, to the date of payment
pursuant to section 40(2) of the *Act*.

REASONS FOR THE PROPOSAL:

2. The Applicant's services were terminated
by Stelpipe Ltd. ("the Employer") on
August 4, 2000. At the time of the
termination, the Applicant was 57 years
old. The Applicant was a member of
the Stelpipe Plan and was offered
four options in relation to his pension
benefits as a result of the termination of
his employment: Option 1 - a deferred
monthly benefit; Option 2 - transfer of the
commuted value of his pension benefit to
a locked-in retirement account; Option
3 - transfer of his benefits to a registered
pension plan of a subsequent employer;
and Option 4 - transfer of his benefits to
an annuity issuer for the purchase of a life
annuity. The Applicant elected Option 2.
3. The Applicant in his letter to the Employer
dated October 27, 2000, enclosing the
signed Election of Option Form also dated
October 27, 2000, indicated that he was
aware that his pension benefits exceeded
that which was set out in the Option
Form, however, that he was exercising
the option in order to comply with a 60
day deadline stipulated by the Employer

to elect an option. The commuted value of the Applicant's deferred monthly pension was valued at \$172,643.97 on the Option Form. The Applicant was concerned that if he failed to exercise one of the four options then he would have received, by default, a deferred monthly pension of approximately \$2,093.67 per month.

4. The Applicant subsequently filed a complaint with the Ontario Human Rights Commission ("Human Rights Complaint"). The complaint was settled. The Minutes of Settlement dated June 28, 2002 ("Minutes of Settlement") and signed by the Applicant and the Employer, provided for the payment of the sum of \$184,966.35 plus interest from June 30, 2001 to the date of the Minutes to be transferred to a financial institution designated by the Applicant and as permitted by law.
5. Under the terms of the Minutes of Settlement the sum of \$205,595.16, inclusive of interest to the date of payment, was transferred from the Stelpipe Plan to a locked in retirement account designated by the Applicant on or about March 21, 2003.
6. The Financial Services Commission of Ontario ("FSCO") in a letter dated October 18, 2004 to Hicks Morley Hamilton Stewart Storie LLP ("Hicks Morley"), the counsel for the Employer, indicated that the Applicant was also eligible to receive subsidized early retirement benefits at the date of the termination of his employment under section 5 of the Stelpipe Plan as required by section 40(2) of the *Act*. FSCO requested that the Employer revise the commuted value calculation to include the early retirement subsidies and provide details of the calculations, including all actuarial assumptions used.
7. In response to FSCO's request, Hicks Morley, in their letter dated December 10, 2004 to FSCO, submitted that the Minutes of Settlement executed by both the Applicant and the Employer, in relation to the Human Rights Complaint, sets out the full entitlement of the Applicant. Under clause 1(e) of the Minutes of Settlement, the Applicant accepted as his entitlement to a pension benefit "the sum of \$184,966.35, plus applicable interest from June 30, 2001 to the date of these Minutes, representing the transfer of his pension monies to a locked-in retirement account as per Mr. Reid's election dated October 27, 2000."
8. Hicks Morley also submitted that under clause 5 of the Minutes of Settlement, the Applicant released the Employer and its successors from any claims in respect of his pension benefits.
9. Hicks Morley, in an exhibit to their letter dated December 10, 2004, provided the commuted values of the Applicant's pension benefit with and without the bridge benefits. The Applicant's entitlement without the bridge benefit was calculated as \$171,881.29 and the commuted value with the bridge benefit was calculated as \$337,093.26 as of the date of termination of the Applicant's employment.
10. Hicks Morley submitted in their letter dated December 10, 2004, that under the terms of the Stelpipe Plan, an employee eligible for early retirement

is not eligible to receive a commuted value payment. Further, that the Applicant waived his right to early retirement treatment when he sought the Employer's agreement to pay him a commuted value instead of his pension.

the value of the bridge benefit should have been included in the calculation of the commuted value of the Applicant's pension benefit.

11. Section 5 of the Stelpipe Plan provides for an early retirement pension for members who have attained age 55, or who have 30 years or more of credited service. Once a member satisfied this eligibility requirement, the member is entitled to receive an immediate pension payable in equal monthly installments in lieu of a deferred normal pension, together with a bridge benefit under section 5(b) of the Stelpipe Plan.
12. At the time the Applicant's services were terminated, he satisfied the eligibility requirement to exercise the early retirement option under section 5 of the Stelpipe Plan. The Applicant elected to receive the commuted value of his pension benefit; however, the value of the bridge benefit was not included in the calculation of the commuted value.
13. Section 40(2) of the *Act* provides that an ancillary benefit for which a member has met all the eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit shall be included in calculating the member's pension benefit or commuted value of the pension benefit.
14. Since the Applicant had satisfied the eligibility requirements under the Stelpipe Plan for the receipt of the early retirement pension together with the bridge benefit,
15. Section 5 of the Stelpipe Plan is silent on members' entitlement to the commuted value of an early retirement pension. Instead the option to elect a commuted value is addressed under section 10(f) of the Stelpipe Plan. Under section 10(f) a deferred annuitant has the option to transfer the commuted value of his deferred annuity to a registered retirement savings account or life income fund as prescribed under the *Act*.
16. When the pension benefit options were offered to the Applicant in the "Election of Option on Termination from Employment" form, the Employer did not indicate under which provisions of the Stelpipe Plan or the *Act* it was offering these options. Nevertheless the Employer offered the Applicant the option to receive the commuted value of his pension benefit. The Applicant, with reservation, accepted this option and subsequently agreed to the receipt of the commuted value and interest as set out in the Minutes of Settlement.
17. Notwithstanding the fact that the Applicant entered into the Minutes of Settlement before the Human Rights Commission, the value of the Applicant's pension benefits was not calculated in accordance with his entitlement as required by section 40(2) of the *Act*. Specifically, the value of the Applicant's bridge benefits was not included in the calculation of his pension benefits as required by section 40(2) of the *Act*.

18. Section 40(2) of the *Act* sets out a minimum standard for the determination of a plan member's entitlement to a pension benefit or the commuted value of a pension benefit. A pension plan could provide a benefit in excess of the minimum standards; however, it cannot provide less than is required by the *Act*. No one can contract out of these minimum standards.
19. The value of the Applicant's pension benefits as set out in the Minutes of Settlement represents an amount that is less than the minimum standard provided under the *Act*. The Employer is therefore required to transfer to the Applicant's locked-in account the difference between the commuted value amount set out in the Minutes of Settlement and the amount of the commuted value of the Applicant's pension taking into account the early retirement subsidies as at the date of termination of the Applicant's employment.
20. Therefore, the Superintendent proposes to order the administrator of the Stelpipe Plan to pay the Applicant the difference between the amount of the pension benefit that was actually transferred on or about March 21, 2003 to the Applicant's locked-in account in the amount \$205,595.16, and the revised commuted value (including the value of the bridge benefit) in the amount of \$337,093.26 (which includes available service to September 29, 2000), together with interest from the date of termination of the Applicant's employment to the date of payment.

21. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
North York, Ontario M2N 6L9

Attention: The Registrar

For further information, contact the Registrar of the Tribunal by phone at 416-226-7752, or toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, 8th May, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ PURSUANT TO section 112 of the *Act*, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 69 of the
Act, respecting the **Pension Plan for the
Employees of First Place, Hamilton** (the Plan)
Registration Number 1117217.

TO: Darlene Sundercock
Wind-up Specialist
London Life Financial
255 Dufferin Avenue
London, ON N6A 4K1

Administrator

AND TO: Mary Tullo
Administrator
First Place, Hamilton
300-350 Hamilton East
Hamilton, ON L8N 3Y3

Employer

AND TO: Karen Kimel
Mintz & Partners Limited
1 Concorde Gate, Suite 200
Toronto, ON M3C 4G4

Receiver

**NOTICE OF PROPOSAL TO MAKE AN
ORDER**

I PROPOSE TO MAKE AN ORDER under
section 69 of the *Act* that the Plan be wound
up effective **November 30, 2005** for the
following reasons and such further reasons
that may come to my attention:

**There was a cessation or suspension of
employer contributions to the pension
fund.**

**The employer failed to make
contributions to the pension fund as
required by this Act.**

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the *Act*, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
Any notice requiring a hearing shall be
delivered to the:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, Ontario M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact
the Registrar of the Tribunal by phone at 416-
226-7752, toll free at 1-800-668-0128, ext. 7752,
or by fax at 416-226-7750.

**IF YOU DO NOT DELIVER TO THE
TRIBUNAL, WITHIN THIRTY (30)
DAYS FROM THE DATE THIS NOTICE
OF PROPOSAL IS SERVED ON YOU, A
WRITTEN NOTICE THAT YOU REQUIRE
A HEARING, I MAY MAKE THE ORDER
PROPOSED HEREIN.**

DATED at Toronto, Ontario, this 10th day of
May, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order under sections 33 and 87 of the *Act* in respect of the Retirement Plan for Full Time Retail Store Employees of The Great Atlantic & Pacific Company of Canada, Limited who are Members of Local 414 of Retail Wholesale Canada/CAW Division, Registration No. 900944.

TO: **The Great Atlantic & Pacific Company of Canada, Limited**
P.O. Box 68 Station 'A'
Toronto, ON, M5W 1A6

Attention: Terry R. Howard
Vice President, Treasury, Tax,
Retail Financial Planning &
Analysis

**Employer and Administrator of
the Plan**

AND TO: **Complainant**

NOTICE OF PROPOSAL

I PROPOSE TO MAKE

1. **AN ORDER** under sections 33 and 87 of the *Act* that the Administrator of the Retirement Plan for Full Time Retail Store Employees of The Great Atlantic & Pacific Company of Canada, Limited who are Members of Local 414 of Retail Wholesale Canada/CAW Division, Registration No. 900944 (the "*Plan*"):

(a) Effective January 1, 1988, permit

all current and former part time employees who are or were members of the bargaining unit represented by the Local 414 of Retail Wholesale Canada/CAW Division (the "*CAW*") or its predecessor bargaining agents and who were employed on or after January 1, 1988 to become members of the Plan upon 24 months of less than full-time continuous employment with The Great Atlantic & Pacific Company of Canada, Limited ("*A&P*"), with the lesser of:

i. earnings of not less than 35% of the Year's Maximum Pensionable Earnings as defined in the *Act*; or

ii. 700 hours employment with the employer,

in each of two consecutive calendar years immediately prior to membership in the Plan; and

(b) Provide to such current and former part time employees covered by paragraph (1)(a), within sixty (60) days from the date of this Order, and on an ongoing basis, pension benefits in accordance with the terms of the Plan determined on the basis that such part time employees were eligible for membership in accordance with paragraph (a), with interest in respect of any lump sum representing retroactive payments to such part time employees calculated as prescribed in Regulation 909, R.R.O. 1990; or

2. **AN ORDER**, in the alternative to the order set out in paragraph 1, that A&P establish

effective January 1, 1988 and maintain a separate pension plan for current and former part time employees covered by paragraph (1)(a) with pension benefits and other benefits reasonably equivalent to those provided to full time employees under the Plan.

REASONS:

Background

1. The Plan is a single employer non-contributory defined benefit pension plan. A&P is both the employer and administrator of the Plan. At all material times, the Plan has been subject to collective bargaining between the CAW or its predecessor bargaining agents (the "Union") and A&P.
2. The Plan (then called The Great Atlantic & Pacific Company of Canada, Limited Retirement Plan for Full-Time Retail Store Employees Who Are Members of Local 414 or the Northern Joint Council of the Retail, Wholesale and Department Store Union) was established effective January 1, 1987 and is a successor to the Retirement Income Plan for Union Employees of New Dominion Stores, Inc. Only employees of A&P who were employed on a full time basis and were members of Locals 414, 429, 545, 579, 582 or 915 of the Retail, Wholesale and Department Store Union (a predecessor union to the CAW) were eligible to become members of the Plan.
3. The name and text of the Plan were amended effective August 1, 1995 to reflect the fact that the Retail, Wholesale and Department Store Union, Local 414 affiliated with the United Steelworkers of America to become the Retail Wholesale Canada, Canadian Service Sector Division of the United Steelworkers of America, Local 414. The name and text of the Plan were further amended effective January 1, 2000 to reflect the fact that the CAW became the union under the terms of the Plan.
4. From the inception of the Plan in 1987 until 2002, the Plan expressly limited membership to full time employees of A&P who were represented by the Union ("full time employees"). This limitation was consistent with the terms of the applicable collective agreement as negotiated between A&P and the Union.
5. Pursuant to the terms of the collective agreement ratified by the members of the Union on January 13, 2002 (the "2002 Agreement"), pension benefits were to be provided to part-time employees represented by the Union ("part time employees") effective March 1, 2002 in respect of employment on and after March 1, 2002 by the inclusion of part-time employees as a class of employees entitled to certain identified benefits under the Plan.
6. To date, A&P has not filed amendments to the Plan associated with the 2002 Agreement nor has A&P responded to requests from Financial Services Commission of Ontario ("FSCO") staff for information as to the benefits offered to part time employees and whether or not such benefits are "reasonably equivalent" to benefits provided to full time employees as required by section 34 of the Act.



The Act

7. Section 31(1) of the *Act* states that “[e]very employee of a class of employees for whom a pension plan is established is eligible to be a member of the pension plan.”

8. Section 31(2) provides that a full time employee “is entitled to become a member of the pension plan upon application at any time after completing twenty-four months of continuous full-time employment.” Section 31(3) sets out the analogous tenure requirement for part time employees stating that,

A pension plan may require not more than twenty-four months of less than full-time continuous employment with the employer, with the lesser of,

(a) earnings of not less than 35% of the Year’s Maximum Pensionable Earnings; or

(b) 700 hours employment with the employer,

in each of two consecutive calendar years immediately prior to membership in the pension plan, or such equivalent basis as is approved by the Superintendent, as a condition precedent to membership in the pension plan.

9. Section 32 of the *Act* states that “[a] member of a pension plan who is employed continuously on a less than a full time basis does not cease to be a member by reason only that he or she has” dropped below the earnings or hours thresholds set out in section 31(3) of the *Act*.

10. Under section 33 of the *Act*, the Superintendent may require by order that the administrator of a pension plan accept an “employee as a member” of the pension plan where “on the basis of the nature of the employment or of the terms of the employment of the employee, the employee is a member of the class” for whom the pension plan is established or maintained.

11. Section 34 of the *Act* states that “[a]n employer may establish or maintain a separate pension plan for employees employed in less than full-time continuous employment if the separate pension plan provides pension benefits and other benefits reasonably equivalent to those provided under the pension plan maintained by the employer for employees of the same class employed in full-time continuous employment.”

12. Sections 31 to 34 of the *Act* came into force effective January 1, 1988. These sections constitute a statutory scheme whereby part time employees are entitled to membership in a pension plan (or membership in a plan which has reasonably equivalent benefits) regardless of their part time status provided that “on the basis of the nature of the employment or of the terms of the employment of the employee, the employee is a member of the class” for whom the pension plan is established or maintained.

Plan Prior to 2002

13. Prior to 2002, the denial of Plan membership to part time employees only because of their part time status is a contravention of sections 31 to 34 of the *Act*.

14. A&P has not demonstrated that the nature and terms of employment for part time employees are distinct from the nature and terms of the employment for full time employees as is required to support a finding that part time employees are members of separate class within the meaning of the *Act*. Differences between the two groups arising out of general demographic characteristics do not give rise to such a class distinction because such differences are not differences in the nature and terms of employment and do not necessarily apply to every member of the group in question. To the extent that the full time and part time employees may exhibit some differences in the general distribution of job duties across each group, these differences do not apply in respect of full and part time groups as a whole and are not the result of distinct characteristics of the part time jobs.

15. The fact that the Union, as a matter of collective bargaining, agreed to the exclusion of part time members from Plan membership does not alter the conclusion that the *Act* has been contravened. Section 19(1) of the *Act* requires that the administrator of a pension plan administer a pension plan and fund in accordance with the *Act* and regulations and section 19(4) so requires even if the documents for the Plan set out terms that conflict with the minimum requirements of the *Act* and regulations. For the reasons set out above, the exclusion of part time employees does not meet the requirements of the *Act* and the agreement of the Union to such non-compliant Plan provisions does not alter this conclusion.

2002 Agreement

16. A&P has raised the fact of the 2002 Agreement in its submissions to the Superintendent. FSCO staff have not been provided with the text of the amendments to the Plan associated with the 2002 Agreement nor have FSCO staff been provided with any other information from A&P that would permit FSCO staff to conclude that the benefits extended to part time employees in the 2002 Agreement are "reasonably equivalent" to the benefits provided to full time employees under the Plan as is required by section 34 of the *Act*. Accordingly, the Superintendent is unable to conclude that the 2002 Agreement meets the requirements of the *Act*.

17. In addition, the 2002 Agreement would not be sufficient to bring the Plan into compliance with the *Act* (even assuming that it did contain reasonably equivalent benefits for part time employees) because the 2002 Agreement does not apply prior to 2002 despite the fact that the provisions of the *Act* granting entitlement to pension plan membership to part time employees came into force in 1988.

Proposed Order

18. Section 87 of the *Act* authorizes the Superintendent by order to require that an administrator "take or refrain from taking any action in respect of a pension plan or a pension fund" if the Superintendent is of the opinion, upon reasonable and probable grounds, that a pension plan is not being administered in accordance with the *Act*, the regulations or the pension plan or if the pension plan does not comply with the *Act* and the regulations.



19. As set out above, the Plan does not comply with the *Act* because under the terms of the Plan, part time employees are not entitled to membership in the Plan. The Plan is not being administered in accordance with the *Act* because the Plan is being administered so as not to extend membership to part time employees although the *Act* so requires. Accordingly, the Superintendent proposes to order that A&P take measures to comply with sections 31 to 34 of the *Act* by extending membership eligibility to part time employees effective the date that sections 31 to 34 of the *Act* came into force, January 1, 1988, in accordance with the terms of paragraph 1 of the proposed order set out above.

20. In doing so, A&P is required to recognize the fact that the entitlement of part time employees to Plan membership dates from January 1, 1988. Current and former part time employees may have already become entitled to benefits under the Plan and A&P is required to pay any pension benefits accordingly. Any lump sum amounts payable in respect of pension benefits not paid to date should be paid with interest calculated in accordance with the rate and method applicable to lump sum payments from a pension plan set out in section 24(11) of Regulation 909, R.R.O. 1990.

21. In the alternative to the extension of membership in the Plan to part time employees as set out in paragraph 1 of the proposed order, the Superintendent proposes to order that A&P establish a plan for part time employees effective January 1, 1988 that contains benefits that are reasonably equivalent to the benefits provided in the Plan to full time employees.

22. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING before the Financial Services Tribunal (the "Tribunal") pursuant to subsection 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Proposal is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, Ontario M2N 6L9

Attention: The Registrar

For further information, contact the Registrar of the Tribunal by phone at 416-226-7752, or toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY CARRY OUT THE PROPOSAL AS DESCRIBED IN THIS NOTICE.

DATED at Toronto, Ontario, May 12, 2006.

K. David Gordon
Deputy Superintendent, Pensions

CC: D.Vincent, Ogilvy Renault LLP
H. O'Reilly, Cavalluzzo Hayes Shilton
McIntyre & Cornish

¹ PURSUANT TO section 112 of the *Act*, any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the day of mailing.

Notices of Proposal to Make a Declaration

IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make a Declaration under section 83 of the *Act*, respecting the **Pension Plan for Slater Stainless Corp. Members of the National Automobile, Aerospace, Transportation and General Workers Union** (the Plan)
Registration Number **0561456**.

TO: David Kearney
Principal
Morneau Sobeco Limited

Partnership

895 Don Mills Road, Suite 700
One Morneau Sobeco centre
Toronto, ON M3C 1W3

Administrator

AND TO: Paul Davis
Vice President, Administration
Slater Stainless Corp.
Markborough Place
6711 Mississauga Road, Ste. 202
Mississauga, ON L5N 2W3

Employer

AND TO: Jeff Rosenberg
PricewaterhouseCoopers Inc.
145 King Street West
Toronto, ON M5H 1V8

Receiver

AND TO: Sym Gill
National representative
Caw Canada
250 Placer Court
Toronto ON M2H 3M9

Union Representative

NOTICE OF PROPOSAL TO MAKE A DECLARATION

I PROPOSE TO MAKE A DECLARATION under section 83 of the *Act* that the Pension Benefits Guarantee Fund applies to the Plan for the following reasons and such further reasons that may come to my attention:

1. The Plan is registered under the *Act*, and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund by the *Act* or the regulations made thereunder, and
3. The plan was wound up effective May 5, 2004 and
4. There are reasonable and probable grounds that the funding requirements of the *Act* and Regulations cannot be satisfied. The administrator has estimated the deficit in the plan as at January 1, 2002 to be **\$15,625,000**. If funds become available from the estate of the employer, the administrator will be required to make an appropriate refund of any allocation amount received by the Plan from the Pension Benefits Guarantee Fund.



YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 5th day of January, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make a Declaration under section 83 of the *Act*, respecting the **Pension Plan for Hourly Employees of Chun King Canada Inc.** (the "Plan") Registration Number **0597450**.

TO: Debbie Gallagher
Consultant
Morneau Sobeco Limited

Partnership

895 Don Millls Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Pension Plan Administrator
Chun King of Canada Inc.
1019 Elliot Street West
Windsor, ON N9A 5Z8

Employer

AND TO: Ron Milkins
**United Food and Commercial
Workers Union Local 459**
261 Erie Street
Leamington, ON N8H 3C4

Union Representative

**NOTICE OF PROPOSAL TO MAKE A
DECLARATION**

I PROPOSE TO MAKE A DECLARATION under section 83 of the *Act* that the Pension Benefits Guarantee Fund applies to the Plan for the following reasons and such further

reasons that may come to my attention:

1. The Plan is registered under the *Act*, and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund by the *Act* or the regulations made thereunder, and
3. The plan was wound up effective **December 1, 1991**, and
4. There are reasonable and probable grounds that the funding requirements of the *Act* and regulations cannot be satisfied. The administrator has estimated the deficit in the plan at the wind up date to be **\$209,000**. Based on the latest actuarial certification, there is an estimated claim against the Pension Benefits Guarantee Fund of **\$550,000**, as at February 1, 2006. If funds become available from the estate of the employer, the administrator will be required to make an appropriate refund of any allocation amount received by the Plan from the Pension Benefits Guarantee Fund.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the *Act*, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, Ontario
M2N 6L9

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 24th day of March, 2006.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make a Declaration under section 83 of the
Act, respecting the **Pension Plan for Salaried
Employees of Ivaco Inc. and Participating
Subsidiary Companies** (the "*Plan*")
Registration Number 0410357.

TO: Andre Crompt
President of the Pension

Committee

Ivaco Inc.
770, rue
Sherbrooke Ouest, 20e etage
Montreal, Quebec H3A 1G1

Administrator

AND TO: Andre Crompt
Ivaco Inc.
770, rue
Sherbrooke Ouest, 20e etage
Montreal, Quebec H3A 1G1
Employer

AND TO: Jeff Kerber
Ernst & Young
Ernst & Young Tower
222 Bay Street, P.O. Box 251
Toronto, ON M5K 1J7

Court Appointed Monitor

**NOTICE OF PROPOSAL TO MAKE A
DECLARATION**

I PROPOSE TO MAKE A DECLARATION
under section 83 of the *Act* that the Pension
Benefits Guarantee Fund applies to the Plan

for the following reasons and such further
reasons that may come to my attention:

1. The Plan is registered under Quebec's
Supplemental Pension Plans Act, a
designated province stipulated under
section 1 of the *Act*,
2. The Plan provides defined benefits
that are not exempt from the
application of the Pension Benefits
Guarantee Fund by the Act or the
regulations made thereunder, and
3. The plan was wound up effective
December 1, 2004, and
4. There are reasonable and probable
grounds that the funding requirements
of the Act and regulations cannot
be satisfied. The administrator has
estimated the deficit in the plan at the
wind up date to be **\$52,666,000**. Based
on the latest actuarial certification,
there is an estimated claim against the
Pension Benefits Guarantee Fund of
\$10,002,000. If funds become available
from the estate of the employer, the
administrator will be required to make
an appropriate refund of any allocation
amount received by the Plan from the
Pension Benefits Guarantee Fund.

YOU ARE ENTITLED TO A HEARING by
the Financial Services Tribunal (the Tribunal)
pursuant to section 89(6) of the *Act*, if, within
thirty (30) days after the Notice of Proposal
is served on you, you deliver to the Tribunal
a written notice that you require a hearing¹.
Any notice requiring a hearing shall be
delivered to the:

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if
delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served
or delivered on the seventh day after the date of mailing.



Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 27th day of March, 2006.

K. David Gordon
Deputy Superintendent, Pensions





IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make a Declaration under section 83 of the *Act*, respecting the **LaGran Canada Inc. Retirement Plan for Salaried Employees** (the Plan), Registration Number **690685**.

TO: Carol St-Onge
President of the Pension Committee
c/o Produits Belt-Tech inc.
386 rue Dorchester
Granby, QC J2G 3Z7

Plan Administrator

AND TO: Carol St-Onge
Human Resources Director
LaGran Canada Inc.
386 rue Dorchester
Granby, QC J2G 3Z7

Employer

AND TO: Joel Lepine, FSA, FCIA
Mercer Human Resource Consulting
1981 McGill College Avenue
Suite 800
Montreal (Quebec) H3A 3T5

Consultant to the Plan Administrator

AND TO: Andre Giroux, CA, CIRP
Andre Giroux Inc.
215, rue St-Jacques Ouest
Bureau 1100
Montreal (Quebec) H2Y 1M6

Trustee in Bankruptcy

NOTICE OF PROPOSAL TO MAKE A DECLARATION

I PROPOSE TO MAKE A DECLARATION under section 83 of the *Act* that the Pension Benefits Guarantee Fund applies to the Plan for the following reasons and such further reasons that may come to my attention:

1. The Plan is registered under Quebec's Supplemental Pension Plans Act, a designated province stipulated under section 1 of the Act, and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund by the Act or the regulations made thereunder, and
3. The plan was wound up effective **March 10, 2005**, and
4. There are reasonable and probable grounds that the funding requirements of the Act and regulations cannot be satisfied. Based on the latest actuarial certification, there is an estimated claim against the Pension Benefits Guarantee Fund of **\$127,200**. If funds become available from the estate of the employer, the Plan administrator will be required to make an appropriate refund of any allocation amount received by the Plan from the Pension Benefits Guarantee Fund.





YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the Tribunal) pursuant to section 89(6) of the *Act*, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing¹. Any notice requiring a hearing shall be delivered to the:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 25th day of April, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

Notices of Proposal to Refuse to Consent to an Application

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P8, as amended (the "Act");

the pension fund for the Plan made on
February 9, 1999.

AND IN THE MATTER OF an Application
under section 78(4) of the *Act* submitted by
Ricoh Canada in respect of the **NRG Inc.
Retirement Income Plan, Registration
Number 0253682** (the "Plan").

TO: **Ricoh Canada**
Yonge Corporate Centre
4100 Yonge Street, Suite 600
Toronto, Ontario M2P 2B5

Attention: Jane Padwick
Director, Human Resources

**Applicant, Employer and
Administrator of the Plan**

NOTICE OF PROPOSAL

I PROPOSE TO REFUSE TO CONSENT

to the application dated July 13, 2001, under
section 78(4) of the *Act* by Ricoh Canada (the
"Applicant") for payment of \$231,472 as of
December 31, 2000, plus investment earnings
thereon to the date of payment out of the
pension fund for the Plan.

REASONS FOR THE REFUSAL:

1. The Applicant submitted an application dated July 13, 2001 (the "Application"), pursuant to section 78(4) of the *Act*, for the Superintendent's consent to a payment of \$231,472 as of December 31, 2000, plus investment earnings thereon to the date of payment, out of the fund for the Plan. The Applicant claims that this is the amount of an overpayment by the Applicant into
2. The Plan is a defined benefit pension plan. The Plan was fully wound up with an effective wind up date of February 28, 1996 (the "Wind up Date"). The Wind Up Report disclosed a surplus of \$313,000 as of the Wind up Date.
3. The Superintendent of Financial Services (the "Superintendent") approved the Wind Up Report on July 21, 1997 and directed the Applicant to proceed with the distribution of benefits in accordance with the Wind Up Report.
4. The Application states that due to delays in receiving approvals from Revenue Canada, settlements of benefits were delayed until middle of 1998. Further, due to a decrease in annuity purchase rates after the Wind up Date, an updated financial position was prepared and filed with FSCO in a supplementary actuarial opinion as of October 1, 1998 ("Supplementary Report"). This Supplementary Report showed a deficit of \$765,000. The Applicant made a lump payment of \$765,000 to the pension fund of the Plan on February 9, 1999 to fund the deficit and the remaining members' benefits were fully settled.
5. The Applicant states that due to increases in annuity purchase rates between October 1, 1998 and the date of the annuity purchases, there was a financial gain to the Plan resulting in excess assets in the Plan of \$231,472 as of December 31, 2000 (the "excess assets").

6. Section 1 of the *Act* defines surplus as the “excess of the value of the assets of a pension fund related to a pension plan over the value of the liabilities under the pension plan, both calculated in the prescribed manner.” The excess assets are assets of the pension fund for the Plan left over after all the liabilities under the Plan have been satisfied and, therefore, the excess assets are surplus within the meaning of section 1 of the *Act* and, as such, the Superintendent can only consent to the payment of money that is surplus to the employer if the requirements of section 79 of the *Act* have been met.
7. Section 78(4) of the *Act* provides that the Superintendent may consent to payment out of a pension fund to an employer of an amount not in excess of the amount of an overpayment by the employer into the pension fund or of an amount paid by the employer that should have been paid out of the pension fund, but shall not consent unless the application is made in the same fiscal year of the pension fund as the fiscal year in which the overpayment or the payment occurred.
8. The excess assets do not result from any of the circumstances listed in the Financial Services Commission of Ontario’s (“FSCO’s”), policy entitled “Application for Refund of Employer Overpayment” (Index No. R350-102), in which an employer may be considered to have over-contributed to a pension fund for the purposes of section 78(4) of the *Act*. Specifically, the excess assets do not result from contributions made on the basis of an actuarial report for which the effective date has passed but when the new report was filed, such

contributions exceeded those required by the new report. Nor do the excess assets result from payments made directly by the employer when those payments should have been made from the pension fund. Lastly, the excess assets do not result from contributions paid into the pension fund of the wrong pension plan as a result of an administrative error.

9. Section 75(1)(b)(ii) of the *Act* requires that where a pension plan is wound up, the employer pay into the pension fund an amount equal to the amount by which, the value of the pension benefits accrued with respect to employment in Ontario exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario. Section 32(1) of the Regulation states that “[u]ntil the employer’s liability under section 75 of the *Act* is funded, the administrator of the Plan shall annually cause the Plan to be reviewed and a report to be prepared by a person authorized by section 15 and shall file the report within six months after the valuation date of the report.” Section 32(4) of the Regulation states:

Where a report made under this section shows that there is no further amount to be funded, any surplus may revert to the employer, subject to the requirements of section 79 of the *Act*

10. The Applicant claims that the payment into the Plan was not made pursuant to the annual valuation report prepared in accordance with section 32(1) of the Regulation and since the Plan was in surplus on wind up, section 75 of the *Act*

did not apply. As a result, the Applicant claims that section 32(4) of the Regulations is not applicable in the circumstances.

12. Regardless of whether or not amounts paid into a pension fund resulting in an excess are paid in pursuant to a report filed under section 32 of the Regulations or otherwise, the assets in the pension fund of the Plan left over after the payment of all benefit entitlements is surplus and may only revert to the employer if the requirements of section 79 of the *Act* have been met. The Applicant has not provided any evidence that the requirements of section 79 have been met. Therefore, the Superintendent cannot consent to the withdrawal of any surplus funds by the Applicant.

13. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING

by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the *Act*. To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing¹, within thirty (30) days after this Notice of Proposal is served on you.²

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

For further information, contact the registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY MAKE THE ORDER PROPOSED IN THIS NOTICE.

DATED at Toronto, Ontario, this 13th day of May, 2006.

K. David Gordon
Deputy Superintendent, Pensions

¹ Written notice should be provided using Form 1 - Request for Hearing as set out in the Tribunal's *Interim Rules of Practice and Procedure*.

² NOTE - PURSUANT TO section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



Orders that Pension Plans be Wound Up

IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the *Act*, respecting the **Retirement Plan for Employees of Repla Limited and Akna Industries Ltd.** (the Plan) Registration Number **0942862**.

TO: Melissa Lambert
Plan Design Specialist
Manulife Financial
P.O. Box 396
Delivery Station KC6
Waterloo, ON N2J 4A9

Administrator

AND TO: Anne Molgaard
Plan Administrator
Repla Limited
482 South Service Road East
Oakville, ON U0J 2X6

Employer

AND TO: Christopher Porter
BDO Dunwoody Limited
33 City Centre Drive, Suite 680
Mississauga, ON L5B 2N5

Trustee in Bankruptcy

ORDER

NO request requiring a hearing was delivered to the Financial Services Tribunal within the time prescribed by subsection 89(6) of the *Act* respecting a Notice of Proposal to make an

Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan be wound up in full effective **January 15, 2005** for the following reasons:

The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act (Canada)*.

DATED at Toronto, Ontario, this 11th day of January, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated Authority from the Superintendent of Financial Services





IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

Union Representative

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the *Act*,
respecting the **Pension Plan for Slater Stainless
Corp. Members of the National Automobile,
Aerospace, Transportation and General
Workers Union of Canada (CAW - Canada)**
(the "Plan") Registration Number **0561456**.

TO: David Kearney
Principal
**Morneau Sobeco Limited
Partnership**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Paul Davis
Vice President
Slater Stainless Corp.
Markborough Place
6711 Mississauga Road, Ste. 202
Mississauga, ON L5N 2W3

Employer

AND TO: Jeff Rosenberg
PricewaterhouseCoopers Inc.
145 King Street West
Toronto ON M5H 1V8

Receiver

AND TO: Sym Gill
National Representative
CAW Canada
250 Placer Court
Toronto ON M2H 3M9

ORDER

NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the *Act*
respecting a Notice of Proposal to make an
Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan
be wound up in full effective May 5, 2004
and include the class of members whose
employment or membership terminated
during the period of March 7, 2003 and May 5,
2004 for the following reasons:

**There is a cessation or suspension of
employer contributions to the pension fund.**

**The employer fails to make contributions to
the pension fund as required by this Act.**

**A significant number of members of the
pension plan ceased to be employed by the
employer as a result of the discontinuance
of all or part of the business of the employer
or as a result of the reorganization of the
business of the employer.**

**All or a significant portion of the
business carried on by the employer at a
specific location was discontinued.**

DATED at Toronto, Ontario, this 26th day of
January, 2006.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 69 of the
Act, respecting the **Pension Plan for Slater
Stainless Corp. Members of the United
Steelworkers of America (Local 7777)** (the
"Plan") Registration Number **0561464**.

TO: David Kearney
Principal
**Morneau Sobeco Limited
Partnership**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Paul Davis
Vice President
Slater Stainless Corp.
Markborough Place
6711 Mississauga Road, Ste. 202
Mississauga, ON L5N 2W3

Employer

AND TO: Jeff Rosenberg
PricewaterhouseCoopers Inc.
145 King Street West
Toronto, ON M5H 1V8

Receiver

AND TO: Ron Mattie
Local President
**United Steelworkers of
America, Local 7777**
234 Eglinton Avenue East
Suite 800
Toronto ON M4P 1K7

Union Representative

ORDER

NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the *Act*
respecting a Notice of Proposal to make an
Order to wind up the Plan.

IT IS THEREFORE ORDERED that the
Plan be wound up in full effective May 26,
2004 and include the class of members whose
employment or membership terminated
during the period of February 15, 2002 and
May 26, 2004 for the following reasons and
such further reasons that may come to my
attention:

**There is a cessation or suspension of
employer contributions to the pension
fund.**

**The employer fails to make contributions
to the pension fund as required by this Act.**

**A significant number of members of
the pension plan ceased to be employed
by the employer as a result of the
discontinuance of all or part of the
business of the employer or as a result of
the reorganization of the business of the
employer.**

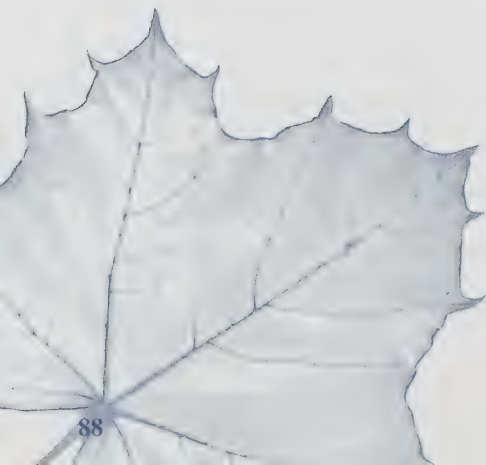


Ontario

All or a significant portion of the business carried on by the employer at a specific location was discontinued.

DATED at Toronto, Ontario, this 26th day of January, 2006.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services





IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the *Act*, respecting the **Pension Plan for Employees of Nadeau et Fils 1354342 Ontario Inc.** (the Plan) Registration Number **1085372**.

TO: Melissa Lambert
Plan Design Specialist
Manulife Financial
P. O. Box 396
Delivery Station KC6
Waterloo, ON N2J 4A9

Administrator

AND TO: Benoit Nadeau
President
Nadeau et Fils 1354342 Ontario Inc.
P.O. Box 166
Elk Lake, ON P0J 1G0

Employer

ORDER

NO request requiring a hearing was delivered to the Financial Services Tribunal within the time prescribed by subsection 89(6) of the *Act* respecting a Notice of Proposal to make an Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan be wound up in full effective **March 31, 2003** for the following reasons:

There is a cessation or suspension of employer contributions to the pension fund.

The employer fails to make contributions to the pension fund as required by this Act.

The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act* (Canada).

DATED at Toronto, Ontario, this 7th day of March, 2006.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services





IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 69 of the
Act, respecting the **Pension Plan for the
Employees of Tandem Fabrics Inc.** (the Plan)
Registration Number **466151**.

TO: Darlene Sundercock
Wind-up Customer Service
Specialist
**London Life Insurance
Company**
255 Dufferin Avenue
London, ON N6A 4K1

Administrator

AND TO: Lorraine Leblanc
Plan Administrator
Tandem Fabrics Inc.
170 Mill Road, NB E1A 4B1

Employer

AND TO: Mathew J. Munro
Vice President
PricewaterhouseCoopers Inc.
P.O. Box. 789
44 Chipman Hill, Suite 300
Saint John, NB E2L 4B9

Trustee in Bankruptcy

ORDER

NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the *Act*
respecting a Notice of Proposal to make an

Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan
be wound up in full effective **July 8, 2005** for
the following reasons:

**There is a cessation or suspension of
employer contributions to the pension
fund.**

**The employer fails to make contributions
to the pension fund as required by this
Act.**

**The employer is bankrupt within
the meaning of the *Bankruptcy and
Insolvency Act* (Canada).**

DATED at Toronto, Ontario, this 7th day of
March, 2006.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services
to make an Order under section 69 of the
Act, respecting the **Pension Plan for Tiger
Brand Knitting Company Ltd.** (the Plan)
Registration Number **0310136**.

TO: Darlene Sundercock
Wind-up Customer Service
Specialist
**London Life Insurance
Company**
255 Dufferin Avenue
London, ON N6A 4K1

Administrator

AND TO: Barbara Braniff
Administrator
**Tiger Brand Knitting
Company Ltd.**
96 Grand Ave. S., Box 188
Cambridge, ON N1R 5S9

Employer

AND TO: Naveed Z. Manzoor
RSM Richter Inc.
200 King St. W., Suite 1100
Toronto, ON M5H 3T4

Trustee in Bankruptcy

ORDER

NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the *Act*
respecting a Notice of Proposal to make an

Order to wind up the Plan.

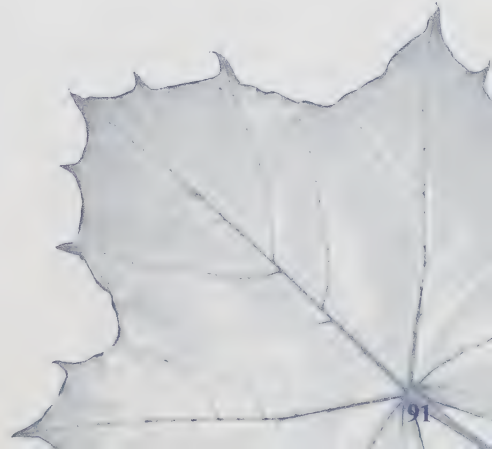
IT IS THEREFORE ORDERED that the Plan
be wound up in full effective **April 22, 2005**
for the following reasons:

**There is a cessation or suspension of
employer contributions to the pension
fund.**

**The employer is bankrupt within
the meaning of the *Bankruptcy and
Insolvency Act* (Canada).**

DATED at Toronto, Ontario, this 20th day of
March, 2006.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER of the Pension Benefits Act, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the Act, respecting the **Decor Products International, a Division of Kleco Corporation Hourly Pension Plan** (the “Plan”) Registration Number **0696864**.

TO: David R. Kearney
Principal
Morneau Sobeco Limited
Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Ron Henderson
Controller
Decor Products International, a Division of Kleco Corporation
140 Bay Street
Midland, ON M5H 3T4

Employer

AND TO: Wayne Palmer
Trustee
RSM Richter Inc.
200 King Street West, Suite 1100
Toronto, ON M5H 3T4

Trustee in Bankruptcy

AND TO: Wayne Latour
The National Automobile, Aerospace and Agricultural Implement Workers of Canada (CAW-Canada) Local 1411
Midland, ON L4R 4L3

Union Representative

ORDER

NO request requiring a hearing was delivered to the Financial Services Tribunal within the time prescribed by subsection 89(6) of the Act respecting a Notice of Proposal to make an Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan be wound up in full effective **March 8, 2005** and include the class of members whose employment or membership terminated during the period of February 11, 2005 for the following reasons:

There is a cessation or suspension of employer contributions to the pension fund.

The employer fails to make contributions to the pension fund as required by this Act.

The employer is bankrupt within the meaning of the Bankruptcy and Insolvency Act (Canada).

A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.



All or a significant portion of the business carried on by the employer at a specific location was discontinued.

DATED at Toronto, Ontario, this 31st day of March, 2006.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services





IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

DATED at Toronto, Ontario, this 3rd day of
May, 2006.

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the *Act*,
respecting the **Staff Pension Plan for the
Employees of A. Gledhill & Son Inc.** (the
"Plan") Registration Number **0942953**.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

TO: Melissa Lambert
Plan Design Specialist
**The Manufacturers Life
Insurance Company**
500 King Street North
P.O. Box 1602
Waterloo, ON N2J 4C6

Administrator

AND TO: Larry Gledhill
633 Colborne Street
London, Ontario N6A 2V3

Employer

ORDER

NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the *Act*
respecting a Notice of Proposal to make an
Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan
be wound up in full effective **February 28,**
1990 for the following reasons:

**There is a cessation or suspension of
employer contributions to the pension
fund.**



IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the *Act*, respecting the **Pension Plan for Hourly Employees of Chun King Canada Inc.** (the "Plan") Registration Number 0597450.

TO: David R. Kearney
Morneau Sobeco Limited Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Pension Plan Administrator
Chun King of Canada Inc.
1019 Elliot Street West
Windsor, ON N9A 5Z8

Employer

AND TO: Ron Milkins
United Food and Commercial Workers Union Local 459
261 Erie Street
Leamington, ON N8H 3C4

Union Representative

ORDER

NO request requiring a hearing was delivered to the Financial Services Tribunal within the time prescribed by subsection 89(6) of the *Act* respecting a Notice of Proposal to make an Order to wind up the Plan.

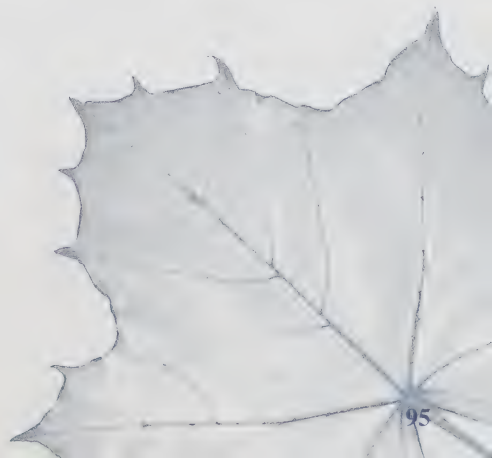
IT IS THEREFORE ORDERED that the Plan be wound up in full effective **December 1, 1991** and include the class of members whose employment terminated between September 11, 1991 and December 1, 1991 for the following reasons:

A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

All or a significant portion of the business carried on by the employer at a specific location was discontinued.

DATED at Toronto, Ontario, this 3rd day of May, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated Authority from the Superintendent of Financial Services





IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the *Act*,
respecting the **Registered Pension Plan for
Employees of Siematic (Canada) Limited
Partnership and Participating Affiliates** (the
Plan) Registration Number **0923250**;

TO: Audrey Humphrey
Plan Finals Associate
Sun Life Financial
227 King Street South
P.O. Box 1601 STN Waterloo
Waterloo, ON N2J 4C5

Administrator

AND TO: Lori Stotts
Administrator
**Siematic (Canada) Limited
Partnership**
353 Manitou Drive
Kitchener, ON N2C 1L5

Employer

AND TO: Robert Bougie
Senior Vice President
Deloitte & Touche
79 Wellington Street West
Suite 1900
Toronto, ON M5K 1B9

Trustee in Bankruptcy

ORDER

NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the *Act*
respecting a Notice of Proposal to make an
Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan
be wound up in full effective **May 15, 2005** for
the following reasons:

**There is a cessation or suspension of
employer contributions to the pension fund.**

**The employer fails to make contributions to
the pension fund as required by this Act.**

**The employer is bankrupt within
the meaning of the *Bankruptcy and
Insolvency Act* (Canada).**

**A significant number of members of
the pension plan ceased to be employed
by the employer as a result of the
discontinuance of all or part of the
business of the employer or as a result of
the reorganization of the business of the
employer.**

DATED at Toronto, Ontario, this 3rd day of
May, 2006.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 69 of the *Act*,
respecting the **Registered Pension Plan
for Employees of Hunjan Tools & Mould
Ltd. and Participating Affiliates** (the Plan)
Registration Number **1045368**

TO: Nilu Balsara
Plan Design Services
Manulife Financial
P.O. Box 396, Station Waterloo
Delivery Station -KC-6
Waterloo, ON N2J 4A9

Administrator

AND TO: Mirjana Prasnemer
Benefits Administrator
**Hunjan Tools & Mould Ltd.
and Participating Affiliates**
380 Markham Street
Markham, ON L6C 1T6

Employer

AND TO: Anamika Gadia
KPMG Inc
199 Bay Street
Suite 3300, Commerce Court W.
Toronto, ON M5L 1B2

Receiver

ORDER

NO request requiring a hearing was delivered
to the Financial Services Tribunal within the
time prescribed by subsection 89(6) of the *Act*

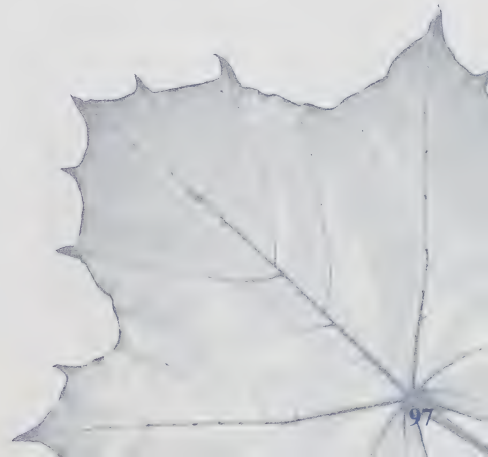
respecting a Notice of Proposal to make an
Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan
be wound up in full effective **June 16, 2005** for
the following reasons:

**There was a cessation or suspension of
employer contributions to the pension
fund.**

DATED at Toronto, Ontario, this 9th day of
May, 2006.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c.P8, as amended (the "Act");

AND IN THE MATTER OF a Partial Plan
Wind Up Report submitted by Schering-
Plough Healthcare Products Canada Inc. in
respect of the **Schering-Plough Healthcare
Products Canada Inc./Produits Pour
Soins de Santé Schering-Plough Canada
Inc. Salaried Employees Pension Plan,**
Registration No. 297903 (the "Plan").

TO: Schering Canada Inc.
Schering-Plough Canada
3535 Trans-Canada
Pointe-Claire, QC
H9R 1B4

Attention: Daniel S. Fetzter, Director of
Finance

**Employer and Administrator
of the Plan**

ORDER

ON or about October 14, 1999, the
Superintendent of Financial Services (the
"Superintendent") issued a Notice of Proposal
(the "Notice of Proposal") to the Employer
and Administrator of the Schering-Plough
Healthcare Products Canada Inc./Produits
Pour Soins de Santé Schering-Plough Canada
Inc. Salaried Employees' Pension Plan,
Registration Number 297903 (the "Plan"),
wherein she proposed to make an Order
on the basis of sections 70(5), 87(2)(c), and
88(2)(c) of the Act requiring the Employer and
Administrator to prepare and submit within
60 days of the Order, a report amending that
portion of the partial wind up report dated
February 19, 1997 on the Partial Wind-Up of

the Plan as at August 31, 1996 (the "Report")
dealing with surplus attributable to the
partial wind up group, to comply with the
requirements of the Act.

ON or about November 10, 1999, Schering-
Plough Healthcare Products Canada Inc. (the
"Employer") requested a hearing before the
Financial Services Tribunal (the "Tribunal").

ON or about February 2, 2000, the Tribunal
adjourned the proceeding *sine die* on consent
of all parties, subject to the term that the
parties were to contact the Registrar of the
Tribunal by April 17, 2000 to schedule a
telephone conference with the Chair of the
panel presiding in the proceeding.

ON or about April 14, 2000 and May 12,
2000, the parties jointly requested that the
proceeding be adjourned *sine die* to await
the appeal in the *Monsanto Canada Inc.* case
("Monsanto").

ON or about May 18, 2000, the Tribunal
agreed to adjourn the proceeding *sine die* to
await the decision in *Monsanto*.

ON or about January 1, 1999, the Plan was
effectively amended to change the name
of the Employer from Schering-Plough
Healthcare Products Canada Inc./Produits
Pour Soins de Santé to Schering Canada Inc.

ON or about July 29, 2004, the Supreme Court
of Canada released its decision in *Monsanto*,
holding that the Act requires a distribution of
surplus on partial wind up.

ON or about October 21, 2004, the Tribunal issued a Notice of Pre-Hearing Conference scheduling the pre-hearing conference for December 15, 2004.

ON or about December 10, 2004, the Tribunal adjourned the pre-hearing conference at the Employer's request, on the consent of the Superintendent.

ON or about March 9, 2005, the Employer filed an Appendix to the Partial Wind-Up Report as at August 31, 1996.

ON or about September 27, 2005, the Tribunal conducted the pre-hearing conference.

ON or about January 9, 2006, the Tribunal conducted the hearing and reserved its decision.

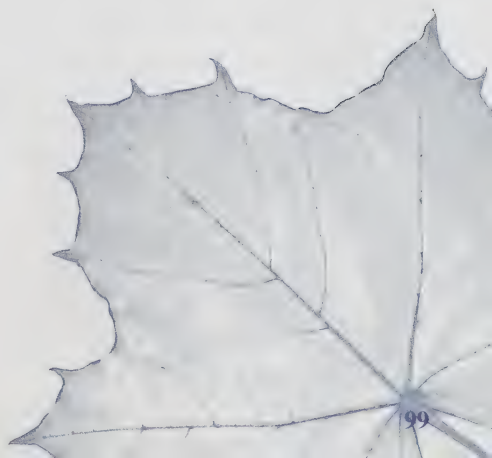
ON or about April 12, 2006, the Tribunal issued its decision, in which it held that the Superintendent may proceed with the Notice of Proposal.

NO Notice of Appeal has been filed respecting the Tribunal's decision.

THEREFORE THE SUPERINTENDENT ORDERS that Schering Canada Inc. file with the Superintendent within 60 days of the date of this Order, a report amending that portion of the Report dealing with the surplus attributable to the partial wind up group, to comply with the requirements of the Act.

DATED at Toronto, Ontario, this 19th day of May, 2006.

K. David Gordon
Deputy Superintendent, Pensions





Consents to Payments out of Wound Up Pension Plans

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the *Act* consenting to a payment out of the Pension Plan for Salaried Employees of Thorn Lighting, Division of TEMI Canada Inc., Registration Number 0591974.

TO: **TEMI Group plc**
27 Wright's Lane
London W8 5 SW
United Kingdom

Attention: Charles Ashcroft
Secretary and General Counsel

Applicant

CONSENT

ON or about November 9, 2005, the Superintendent of Financial Services caused to be served on Thorn Lighting, Division of TEMI Canada Inc. a Notice of Proposal dated November 9, 2005 to consent, pursuant to subsection 78(1) of the *Act*, to the payment out of the Pension Plan for Salaried Employees of Thorn Lighting, Division of TEMI Canada Inc., Registration Number 0591974 (the Plan), to Thorn Lighting, Division of TEMI Canada Inc. in the amount of \$119,316 as at September 10, 1990 plus investment earnings thereon to date of payment less 58% of the expenses related to the wind up of the plan.

NO NOTICE requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Plan to Thorn Lighting Division of TEMI Canada Inc. in the amount of \$119,316 as at September 10, 1990 plus investment earnings thereon to the date of payment less 58% of the expenses related to the wind up of the plan.

THIS CONSENT IS EFFECTIVE ONLY AFTER the Applicant satisfies me that the surplus entitlements of the members, former members and other persons entitled to benefits have been provided for.

DATED at Toronto, Ontario, this 10th day of January, 2006.

Tom Golfetto,
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services

c.c.: Ken Magee, Mercer Human Resource
Consulting



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services
to make an Order under subsection 78(1)
of the *Act* consenting to a payment out of
the Pension Plan for Hourly Employees
of Electrohome Limited, Registration
Number 0551788.

TO: **Electrohome Limited**
809 Wellington Street North
Kitchener, ON N2G 4J6

Attention: **Mr. Gary Dumoulin**
Vice President and Secretary

Applicant and Employer

CONSENT

ON or about October 26, 2005, the
Superintendent of Financial Services caused
to be served on Electrohome Limited a
Notice of Proposal dated October 26, 2005
to consent, pursuant to subsection 78(1) of
the *Act*, to the payment out of the Pension
Plan for Hourly Employees of Electrohome
Limited, Registration Number 0551788,
to Electrohome Limited in the amount
of \$440,000 as at April 30, 2001 adjusted
for expenses and investment income.

NO NOTICE requiring a hearing was
delivered to the Financial Services Tribunal
by the Applicant or any other party within the
time prescribed by subsection 89(6) of the *Act*.

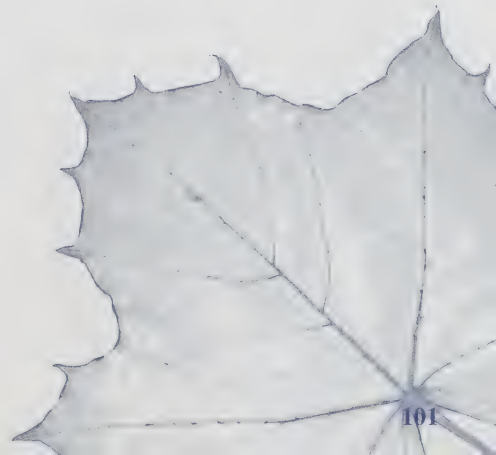
**THE SUPERINTENDENT OF FINANCIAL
SERVICES THEREFORE CONSENTS** to
the payment out of the Pension Plan for

Hourly Employees of Electrohome Limited,
Registration Number 0551788, to **Electrohome
Limited** in the amount of \$440,000 as at April
30, 2001 adjusted for expenses and investment
income.

**THIS CONSENT IS EFFECTIVE ONLY
AFTER** the Applicant satisfies me that all
benefit and benefit enhancements pursuant to
the surplus distribution agreement and any
other payment to which the members, former
members and any other persons entitled to
payments have been paid, purchased or
otherwise provided for.

DATED at Toronto, Ontario, this 23rd day of
January, 2006.

Tom Golfetto,
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28 (the Act);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(1) of the Act consenting to a payment out of the Retirement Plan for the Unionized Production and Maintenance Hourly Employees of Johnson & Johnson Medical Products Registration No. 586966.

TO: **Johnson & Johnson, Inc.**
c/o Blake, Cassels & Graydon LLP
Box 25, Commerce Court West
199 Bay Street, Suite 2800
Toronto, Ontario
M5L 1A9

Attention: Ms. Caroline L. Helbronner

Applicant and Employer

CONSENT

ON or about November 4, 2005 the Superintendent of Financial Services caused to be served on Johnson & Johnson, Inc. a Notice of Proposal dated November 4, 2005 to consent, pursuant to subsection 78(1) of the Act, to payment out of the Retirement Plan for the Unionized Production and Maintenance Hourly Employees of Johnson & Johnson Medical Products, Registration No. 586966 (the Plan), to Johnson & Johnson, Inc in the amount of the remaining surplus after the \$760,500 payment to the participants.

NO NOTICE requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the Act.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Retirement Plan for the Unionized Production and Maintenance Hourly Employees of Johnson & Johnson Medical Products. Registration No. 586966, in the amount of the remaining surplus after the \$760,500 payment to the participants.

THIS CONSENT IS EFFECTIVE ONLY AFTER the Applicant satisfies me that all benefits, benefit enhancements (including benefits and benefit enhancements pursuant to the Surplus Distribution Agreement between the applicant and the members, former members, and any other persons entitled to payments from the fund) and any other payments to which the members, former members, and any other persons entitled to such payments have been paid, purchased, or otherwise provided for.

DATED at Toronto, Ontario, this 23rd day of December, 2005.

Tom Golfetto
Director, Pension Plans Branch by delegated authority from the Superintendent of Financial Services

IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 69 of the *Act*, respecting the **Slater Steel Inc. Pension Plan for Salaried Employees of Slacan Division** (the "*Plan*"), Registration Number **0489310**.

TO: David Kearney
Principal
Morneau Sobeco Limited Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Paul Davis
Vice President
Slater Stainless Corp.
Markborough Place
6711 Mississauga Road, Ste. 202
Mississauga ON L5N 2W3

Employer

AND TO: Jeff Rosenberg
PricewaterhouseCoopers Inc.
145 King Street West
Toronto ON M5H 1V8

Receiver

ORDER

NO request requiring a hearing was delivered to the Financial Services Tribunal within the time prescribed by subsection 89(6) of the *Act* respecting a Notice of Proposal to make an

Order to wind up the Plan.

IT IS THEREFORE ORDERED that the Plan be wound up in full effective **August 31, 1997** for the following reasons:

There is a cessation or suspension of employer contributions to the pension fund.

The employer fails to make contributions to the pension fund as required by this *Act*.

All or part of the employer's business or all or part of the assets of the employer's business are sold, assigned or otherwise disposed of and the person who acquires the business or assets does not provide a pension plan for the members of the employer's pension plan who become employees of the person.

DATED at Toronto, Ontario, this 21st day of February, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated Authority from the Superintendent of Financial Services





Refusals to Consent to Applications for Payment of Surplus Out of Wound Up Pension Plans

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c.P.8, as amended (the "*Act*");

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Refuse to Consent to a Transfer of Assets under section 81 of the *Act* from the **Nacan Products Limited Pension Plan for Former Employees of Acheson Colloids (Canada) Ltd., Registration No. 0576975, to the Pension Plan for Salaried Employees of Nacan Products Limited and its Associated and Subsidiary Companies, Registration No. 0286294.**

TO: Nacan Products Limited
60 West Drive
Brampton, Ontario
L6T 4W7

Attention: Louise Clune, HR Specialist
Employer and Administrator

ORDER

ON or about February 13, 2006, the Superintendent of Financial Services (the "Superintendent") issued a **NOTICE OF PROPOSAL** (the "Notice of Proposal") to Nacan Products Limited (Employer and Administrator), wherein he proposed to **REFUSE TO CONSENT** to the transfer of assets and liabilities from Nacan Products Limited Pension Plan for Former Employees of Acheson Colloids (Canada) Ltd., Registration No. 0576975 (the "Acheson Plan") to the Pension Plan for Salaried Employees of Nacan Products Limited and its Associated and Subsidiary Companies, Registration No. 0286294 (the "Nacan Plan"), effective January 1, 2002, under section 81(5) of the *Act*.

NO REQUEST for a hearing has been received by the Financial Services Tribunal in connection with the Notice of Proposal within the time prescribed by section 89(6) of the *Act*.

THEREFORE:

THE SUPERINTENDENT REFUSES TO CONSENT to the transfer of assets and liabilities from the Acheson Plan to the Nacan Plan, effective January 1, 2002, under section 81(5) of the *Act*.

REASONS:

1. An application was made to the Superintendent for consent to a transfer of assets from the Acheson Plan to the Nacan Plan.
2. Section 81 of the *Act* provides that no transfer of assets shall be made from one pension fund to another without the Superintendent's consent to the transfer of assets. Section 81(5) provides that:

The Superintendent shall refuse to consent to a transfer of assets that **does not protect the pension benefits and other benefits of the members and former members of the original plan** or that does not meet the prescribed requirements and qualifications.
[Emphasis added]

3. Section 11(a) of the Financial Services Commission of Ontario ("FSCO") Policy A700-251 entitled "Full Asset Transfers under Section 81 – Superintendent's Consent Required", effective as of October 29, 1996, provides that:

The Superintendent may decide that the benefits are not protected where:

- (a) the transfer ratio of the importing plan is less than the highest transfer ratio of the exporting plans, and is less than 1.0;...
3. The Actuarial Valuation Report as of January 1, 2002 shows that, on an accrued basis, the Acheson Plan (which is the exporting plan) has a surplus of \$214,946 (the difference between the actuarial liabilities of \$836,228 and the actuarial value of assets of \$1,051,174). It also shows that the Acheson Plan has no solvency deficiency. The Report shows that the Acheson Plan is fully funded for accrued benefits on both an ongoing basis and a solvency basis. Therefore, in the event of a full wind up, there would be sufficient assets in the pension fund of the Acheson Plan to pay all benefits provided for under the Acheson Plan.
4. The "Plan Merger Actuarial Valuation Report" as of January 1, 2002 shows that the Nacan Plan (which is the importing plan) has an unfunded actuarial liability of \$3,102,021 (the difference between the actuarial liabilities of \$25,557,192 and the actuarial value of assets of \$22,455,171). It shows that the Nacan Plan has a solvency deficiency of \$2,084,032. Therefore, in the event of a full wind up, there would not be sufficient assets in the pension fund of the Nacan Plan to pay all benefits provided for under the Nacan Plan.
5. The Actuarial Valuation Report as of January 1, 2002 shows that the transfer ratio of the Acheson Plan is 1.00. The Plan Merger Actuarial Valuation Report shows that the transfer ratio of the Nacan Plan is 0.773.
6. The Plan Merger Actuarial Valuation Report reveals that the transfer ratio of the merged plan (the importing plan), if there was to be an asset transfer, would be 0.786. Thus the transfer ratio of the importing plan is less than the highest transfer ratio of the exporting plans and is less than 1.0. Accordingly, as of January 1, 2002, in the event of a full wind-up, there would be insufficient assets in the pension fund of the merged plan to pay all the benefits provided for under the merged plan.
7. The Superintendent asked Nacan Products Limited, through its actuary, to address the Superintendent's concern that the pension and other benefits of the members and former members of the exporting plan (the Acheson Plan) would not be protected if there was to be an asset transfer, in a letter dated August 28, 2003. Specifically, the Superintendent asked the actuary to demonstrate how the benefits would be protected under the circumstances or provide the Superintendent with its proposed corrective actions to remedy this situation.
8. In its response dated October 20, 2003, Nacan Products Limited does not demonstrate how the benefits would be protected under the circumstances and does not propose any action that would ensure that in the event of a full wind-up there would be sufficient assets in the merged plan to pay all the benefits provided for under the Acheson Plan. Further, its opinion that the merger would

contribute and enhance the protection and security of the pension plan benefits for all Nacan and Acheson plan members because (1) the merged plan would benefit from lower investment management, administration and consulting costs; and (2) with a larger and stronger asset base the merged plan could take advantage of wider range of investments in order to maximize its growth and earnings potential, is not sufficient. These reasons do not provide any assurance that the pension and other benefits of the members and former members of the exporting plan (the Acheson Plan) provided under the Acheson Plan would be protected in the event of a full wind up of the merged plan.

9. Therefore, the Superintendent refuses to consent to the transfer of assets from the Acheson plan to the Nacan Plan under section 81(5) of the *Act*.

DATED at Toronto, Ontario, this 24th day of April, 2006.

Tom Golfetto, Director, Pension Plans
Branch by delegated authority from the
Superintendent





IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the “*Act*”);

AND IN THE MATTER OF an Application under subsection 78(1) of the *Act* submitted by **Alexander Metal Products (1965) Limited** in respect of the **Pension Plan for Employees of Alexander Metal Products (1965) Limited**, Registration Number 533273;

AND IN THE MATTER OF a Proposal to Require a New Report by the Superintendent of Financial Services under section 88 of the *Act* in respect of the **Pension Plan for Employees of Alexander Metal Products (1965) Limited**, Registration Number 533273 (the “*Plan*”).

TO: Alexander Metal Products (1965) Limited
Employer and Administrator of the Plan

AND TO: c/o Low, Murchison LLP
Barristers and Solicitors
200 - 441 MacLaren St.
Ottawa, Ontario, Canada
K2P 2H3

Attention: Daniel Scott
Lawyers for the Employer and Administrator

ORDER

ON or about July 14th, 2005, the Superintendent of Financial Services issued a **Notice of Proposal to:**

REFUSE TO CONSENT, pursuant to subsection 78(1) of the *Act*, to the application for the withdrawal of surplus dated December 12, 2003 (“*Surplus Application*”), submitted by

Alexander Metal Products (1965) Limited, (the “*Employer*”) for the payment of surplus on the wind up of the *Plan* to the *Employer*, and

ALSO TO REQUIRE a new wind up report to be prepared and filed which shall deal with the distribution of surplus related to the wind up of the *Plan* effective October 31, 2002, pursuant to sections 70 and 88 of the *Act*.

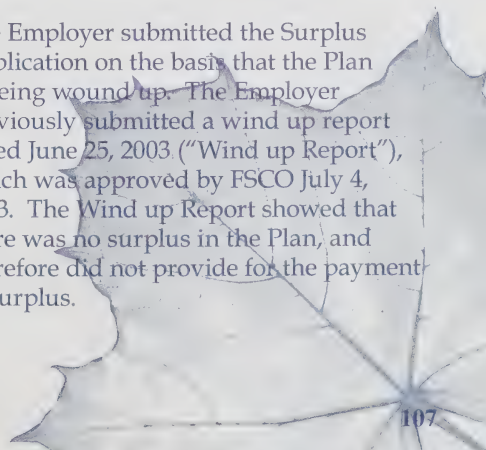
NO REQUEST for a hearing has been received by the Financial Services Tribunal in connection with this matter.

I THEREFORE REFUSE TO CONSENT, pursuant to subsection 78(1) of the *Act*, to the *Surplus Application*, submitted by the *Employer*, for the payment of surplus on the wind up of the *Plan* to the *Employer*, and

I ALSO REQUIRE a new wind up report to be prepared and filed which shall deal with the distribution of surplus related to the wind up of the *Plan* effective October 31, 2002, pursuant to sections 70 and 88 of the *Act*.

REASONS

1. The *Employer* is the employer and administrator of the *Plan*. The *Plan* is a defined contribution pension plan.
2. The *Employer* submitted the *Surplus Application* on the basis that the *Plan* is being wound up. The *Employer* previously submitted a wind up report dated June 25, 2003 (“*Wind up Report*”), which was approved by FSCO July 4, 2003. The *Wind up Report* showed that there was no surplus in the *Plan*, and therefore did not provide for the payment of surplus.



3. In support of the Surplus Application the Employer attached a copy of a letter dated November 27, 2003 from Manulife Financial to Low Murchison LLP, solicitors for the Employer, which states that there is surplus in the Plan as at October 2003 in the amount of \$99,048.20. The letter also states that this surplus arose from the conversion of a prior defined benefit plan to a money purchase plan.
4. By letter dated May 21, 2004, FSCO informed the solicitors for the Employer that staff had reviewed the Surplus Applications, and it had several concerns:
 - a. The Wind up Report submitted did not show that the plan has a surplus. It showed assets equal liabilities and that surplus was \$0.00.;
 - b. The notices to members did not set out the following:
 - (1) Methodology used to determine the surplus attributable to employee and employer contributions;
 - (2) There was no full and complete disclosure of all provisions of the plan and trust documents from the inception of the plan that may be relevant in determining entitlement to surplus on wind up. This includes the provisions in all current and prior plan texts, trusts agreements, insurance contracts, and other documents that may be relevant;
 - (3) It did not state that members, former members, or other affected persons may wish to obtain independent legal advice with respect to the Surplus Application and the proposed distribution agreement before they give any consent.
 - c. The Surplus Application indicates at page four under the heading "Conditions Precedent" that "The Plan documentation does not make reference to the payment of any surplus"; and
 - d. The Employer has not obtained the consent of at least two-thirds of the former members to the refund of surplus to the Employer. The Employer provided waivers signed by members in 1990, which were signed prior to the Surplus Application.
5. The solicitors for the Employer were advised by FSCO in the letter dated May 21, 2004, that the Surplus Application does not satisfy the requirements of the *Act*, Regulations and conditions set out in FSCO Policy. The employer was given specific information on the areas of non-compliance. The employer was also advised that failure to adequately demonstrate compliance may result in a refusal of the application.
6. In response to the May 21, 2004 letter from FSCO, the solicitors for the Employer by letter dated June 22, 2004 indicated that the letter from Manulife confirmed that there is surplus in the Plan. However, no new or revised wind up report was submitted in support of this position. The solicitors for the Employer also

indicated that members already received the pension benefits that they bargained for in their employment agreement, and that the surplus arose entirely due to the employer's over contribution to the previous plan.

7. Subsection 79(3) of the *Act* provides in part that the Superintendent shall not consent to an application by an employer in respect of surplus in a pension plan that is being wound up in whole or in part unless: (a) he is satisfied, based on reports provided with the application, that the pension plan has a surplus; (b) the pension plan provides for the payment of surplus to the employer on the wind up of the plan; (c) the applicant and the pension plan comply with all the other requirements prescribed under other section of the *Act* in respect of the payment of surplus out of a pension fund.
8. Clause 8(1)(b) of Regulation 909, R.R.O. 1990, as amended ("the Regulations") provides that no payment may be made from the surplus out of a pension plan that is being wound up in whole or in part unless the payment is to be made with the written agreement of: (i) the employer, (ii) if there is no collective bargaining agent of the plan, at least two-thirds of the members of the plan; and (iii) such number of former members and other persons who are entitled to the payment under the plan on the date of the wind up of the plan as the Superintendent considers appropriate in the circumstances.
9. The Financial Services Commission of Ontario's ("FSCO") Policy No. S900-510 sets out the requirements for written agreements, pursuant to clause 8(1)(b) of the Regulations. It provides at section 19 that the Superintendent must be satisfied that the employer has provided the former members and other persons who are not currently represented by independent legal counsel with a reasonable opportunity to obtain independent legal advice with respect to the Surplus Application, and the employer has obtained the number of executed agreements required from affected members and others under the regulations.
10. In respect of the level of consent, section 23 of FSCO Policy No. 5900-510 provides that in order to satisfy subclause 8(1)(b)(iii) of the Regulations, an applicant should obtain the written agreements of at least two-thirds of the aggregate of those former members and other persons entitled to payments under the pension plan at the date of wind up.
11. Subsection 28(5) of the Regulations sets out the requirements of the notice of application, required under subsection 78(2) of the *Act*, for the payment of money that is surplus to the employer out of a pension plan. Specifically subsection 28(5)(c) provides that the notice shall contain the surplus attributable to the employee and employer's contributions and subsection 28(5)(f) requires that the notice must set out the contractual authority for surplus reversion.
12. FSCO Policy S900-600 section 9, provides that with respect to clause 28(5)(f) of the Regulations, there must be full and complete disclosure of all provisions of the plan and trust documentation from

the inception, that may be relevant in determining entitlement to the payment of surplus on wind up, including provisions in all current and prior plan texts, trust agreements, insurance contracts, employee booklets, employee notices and any other documents that may be relevant.

13. Section 9 of FSCO Policy S900-600 also provides in part that the actual wording of all the provisions from the plan and trust documentation from the inception of the plan that may be relevant to surplus entitlement and to the question of authority to make the plan amendments must be cited in the Surplus Notice, along with the full analysis of their implications.
14. The notice of application provided by the Employer to former members and other persons entitled to benefits under the Plan does not contain any reference to the provisions of the current Plan, prior plans or any other document that may be relevant. Further it does not set out the surplus attributable to employee and employer contributions, the contractual authority for surplus reversion, nor does it state that the former members or other affected persons may wish to obtain independent legal advice with respect to the Surplus Application and the surplus distribution agreement before they give any consent. Therefore, the Employer has not demonstrated that it has complied with subsection 78(2) of the *Act* and subsection 28(5) of the Regulations.
15. The consents from the former members of the Plan indicate that a surplus exists and grants approval for the withdrawal of said surplus for credit to the Employer.

These consents are dated October 31, 1990, and predate the wind up of the Plan. Therefore, the Employer has not demonstrated that it has complied with sub clause 8(1)(b)(iii) of the Regulation, which requires the agreement of at least two-thirds of the former members of the Plan at the date of the wind up of the Plan.

16. The Wind up Report showed that there is no surplus in the plan. However, the Employer indicated in the Surplus Application that there is surplus. Section 30(f) of FSCO Policy 900-510 requires that the Surplus Application be accompanied by copies of the title pages and the balance sheet of the Wind up Report as of the effective date of the wind up giving rise to the Surplus Application and the actuary's certification from the Wind up Report or any supplemental wind up report. It further provides that a supplement to a wind up report will be required if the distribution of surplus is not addressed in the Wind up Report or the initial wind up report does not reflect the surplus distribution proposals outlined in the Surplus Application.
17. Section 88 of the *Act* provides that the Superintendent may require an administrator to prepare a new report where the report does not meet the requirements of the *Act*, and the Superintendent may specify the methods that shall be used in the preparation of the new report.

DATED at Toronto, Ontario, this 11th day of May, 2006.

K. David Gordon
Deputy Superintendent, Pensions



Consents to Refunds of Employer Overpayments - Subsection 78(4) of the *Pension Benefits Act*

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(4) of the
Act consenting to a payment out of the **The
Retirement Plan for Salaried Employees
of Specialty Chemicals - A Division
of Honeywell ASCa Inc.**, Registration
Number 0338889.

TO: Charlene Arje
Director Canadian Business Services
3333 Unity Drive
Mississauga, ON L5L 3S6

ORDER

NO NOTICE requiring a hearing was
delivered to the Financial Services Tribunal by
the Applicant or any other party within the
time prescribed by subsection 89(6) of the *Act*.

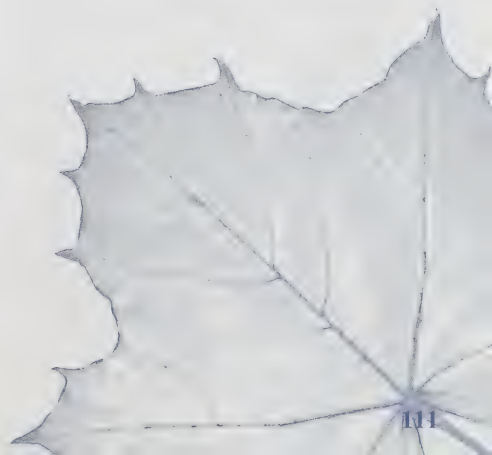
IT IS THEREFORE ORDERED to consent
to the payment, out of the **The Retirement
Plan for Salaried Employees of Specialty
Chemicals - A Division of Honeywell
ASCa Inc.**, to **Honeywell ASCa Inc.**, as
at **September 23, 2001** in the amount of
\$17,412.86 plus interest to the date of payment
for the following reasons:

1. **Honeywell ASCa Inc.** is the employer
as defined in the Plan.
2. As a result of **Administrative
oversight, the contributions were
made directly from the company
funds instead of the pension fund.**

3. Evidence of the Overpayment to
the fund has been submitted to the
Financial Services Commission of
Ontario.
4. There were no member submissions
made about the repayment.
5. The application appears to comply with
section 78(4) of the *Act*.

DATED at Toronto, Ontario, this 9th day of
March, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services



IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(4) of
the *Act* consenting to a payment out of the
**Pension Plan for the Employees Idlewyld
Manor**, Registration Number 0957837.

TO: Dave Drywood
Manager of Financial Services
Idlewyld Manor
449 Sanatorium Rd
Hamilton, ON L9C 2A7

4. The application appears to comply with
section 78(4) of the *Act*.

DATED at Toronto, Ontario, this 17th day of
March, 2006.

Tom Golfetto
Director, Pension Plans Branch
by Delegated Authority from
the Superintendent of Financial Services

ORDER

NO NOTICE requiring a hearing was
delivered to the Financial Services Tribunal
by the Applicant or any other party within
the time prescribed by subsection 89(6) of the
Act.

IT IS THEREFORE ORDERED to consent
to the payment, out of the **Pension Plan for
the Employees Idlewyld Manor**, to **Idlewyld
Manor**, as at **September 30, 2004** in the
amount of **\$6,822.20** plus interest to the date
of payment for the following reasons:

1. **Idlewyld Manor** is the employer as
defined in the Plan.
2. As a result of an audit of 2004 pension
contributions which revealed an
overpayment for August and September
of 2004.
3. Evidence of the Overpayment to the
fund has been submitted to the Financial
Services Commission of Ontario.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to make an Order under subsection 78(4) of the *Act* consenting to a payment out of the **Pension Plan for Employees of Compass Group of Canada (Beaver) Ltd.** (the “Plan”), Registration Number **567354**.

TO: Mr. Bruce Tavender, CA
Vice President, Finance
Compass Group Canada (Beaver) Ltd.
493 Dundas Street
London, ON N6B 1W4

ORDER

NO NOTICE requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

IT IS THEREFORE ORDERED to consent to the payment, out of the **Pension Plan for Employees of Compass Group of Canada (Beaver) Ltd., to Compass Group Canada (Beaver) Ltd.**, as at **September 29, 2005, and October 31, 2005**, in the amount of **\$741,492** at each date, plus interest to the date of payment for the following reasons:

1. **Compass Group Canada (Beaver) Ltd.** is the employer as defined in the Plan.
2. As a result of a **misinterpretation of the minimum amount of monthly special payments, contributions as set out in the December 1, 2004, actuarial valuation report were remitted incorrectly. Instead**

of remitting the monthly amount, the annual amount of special payments was remitted twice (once for August contributions and once for September contributions).

3. Evidence of the overpayment to the fund has been submitted to the Financial Services Commission of Ontario.
4. The application appears to comply with section 78(4) of the *Act*.

DATED at Toronto, Ontario, this 19th day of April, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated Authority from the Superintendent of Financial Services





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(4) of
the *Act* consenting to a payment out of the
**Retirement Plan for Employees of City
Welding (Sudbury) Limited** (the Plan),
Registration Number **0419994**.

TO: Georges Brouillette
Owner/Operator
City Welding (Sudbury) Limited
939 Elisabetha Street
Sudbury, ON P3A 5K1

4. There were no member submissions made about the repayment.
5. The application appears to comply with section 78(4) of the *Act*.

DATED at Toronto, Ontario, this 21st day of April, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services

ORDER

NO NOTICE requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the *Act*.

IT IS THEREFORE ORDERED to consent to the payment, out of the Plan, to **City Welding (Sudbury) Limited**, as at **May 31, 2005** in the amount of **\$13,750.00** plus interest to the date of payment for the following reasons:

1. **City Welding (Sudbury) Limited** is the employer as defined in the Plan.
2. As a result of contributions being made to the Plan, as well as to two separate **Individual Pension Plan** established January 1, 2005 for Georges Brouillette and Gisele Brouillette.
3. Evidence of the overpayment to the fund has been submitted to the Financial Services Commission of Ontario.

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(4) of
the *Act* consenting to a payment out of the
**Pension Plan for Non-Union Employees
of General Mills Canada Corporation** (the
Plan), Registration Number **0291500**.

TO: Ms. Nancy Wood
Human Resources Manager
General Mills Canada Corporation
5825 Explorer Drive
Mississauga, ON L4W 5P6

ORDER

NO NOTICE requiring a hearing was
delivered to the Financial Services Tribunal
by the Applicant or any other party within the
time prescribed by subsection 89(6) of the *Act*.

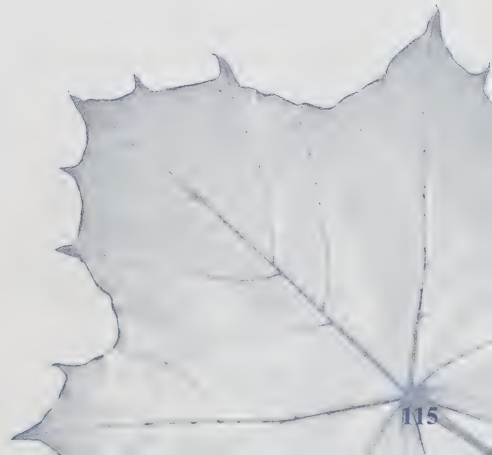
IT IS THEREFORE ORDERED to consent to
the payment, out of the Plan, to **General Mills
Canada Corporation**, as at **July 28, 2003** in
the amount of **\$115,963.15** plus interest to the
date of payment for the following reasons:

1. **General Mills Canada Corporation** is the
employer as defined in the Plan.
2. As a result of an administrative error, a
contribution of \$115,963.15 was made to
the Plan as at July 28, 2003 that should
have been made to the Pension Plan for
Midland Union Employees of General
Mills Canada Corporation, Registration
No. 0574491.

3. Evidence of the overpayment to the fund
has been submitted to the Financial
Services Commission of Ontario.
4. There were no member submissions made
about the repayment.
5. The application appears to comply with
section 78(4) of the *Act*.

DATED at Toronto, Ontario, this 21st day of
April, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services





IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER OF a Proposal by
the Superintendent of Financial Services to
make an Order under subsection 78(4) of the
Act consenting to a payment out of the **Nissan
Canada Inc. Retirement Plan** (the Plan),
Registration Number **563247**.

TO: James P. Higgins
Nissan Canada Inc.
5290 Orbitor Drive
Mississauga, ON L4W 4Z5

ORDER

NO NOTICE requiring a hearing was
delivered to the Financial Services Tribunal
by the Applicant or any other party within the
time prescribed by subsection 89(6) of the *Act*.

IT IS THEREFORE ORDERED to consent to
the payment, out of the **Nissan Canada Inc.
Retirement Plan**, to **Nissan Canada Inc.**, as at
December 31, 2005 in the amount of **\$57,176**
plus interest to the date of payment for the
following reasons:

1. **Nissan Canada Inc.** is the employer as
defined in the Plan.
2. As a result of the new **Actuarial
Valuation Report** as at **December
31, 2004**, the employer contribution
requirements for the year 2005 are less
than the contribution requirements set
out in the **Actuarial Valuation Report**
as at **December 31, 2003**. Therefore, the
2005 employer contributions made up to
September 2005 which were based on the
December 31, 2003 Actuarial Valuation

**Report, exceed the amount required to be
made by the employer.**

3. Evidence of the Overpayment to the
fund has been submitted to the Financial
Services Commission of Ontario.
4. The application appears to comply with
section 78(4) of the *Act*. The application
was made in the same fiscal year in which
the overpayment occurred.

DATED at Toronto, Ontario, this 21st day of
April, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services



Declarations that the Pension Benefits Guarantee Fund Applies to Pension Plans – Subsection 83 (1) of the *Pension Benefits Act*

IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of the Superintendent of Financial Services to make an Order under section 83 and 89 of the *Act*, respecting the **Canadian Drawn Steel Company Inc. Bargaining Unit Pension Plan for Members of United Steelworkers of America** (the “Plan”) Registration Number 0988444

TO: David R. Kearney
Principal
Morneau Sobeco (Regulatory Services) Inc.
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Robert Boylan
Controller
Canadian Drawn Steel Inc.
155 Chatham Street
Hamilton, ON L8P 2B7

Employer

AND TO: Doug LeFaive
Sack Goldblatt Mitchell
Barristers & Solicitors
20 Dundas Street West, Suite 1130
P.O. Box 180
Toronto, ON M5G 2G8

Union Representative

DECLARATION

NO request requiring a hearing was delivered

to the Financial Services Tribunal within the time prescribed by subsection 89(6) of the *Act* requesting a Notice of Proposal to make a Declaration that the Pension Benefits Guarantee Fund applies to the Plan.

I DECLARE pursuant to sections 83 and 89 of the *Act* that the Pension Benefits Guarantee Fund (Guarantee Fund) applies to the Plan for the following reasons:

1. The Plan is registered under the *Act*, and
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund by the *Act* or the regulations made thereunder, and
3. The Plan is winding up in full effective **January 31, 2004** pursuant to section 69 of the *Act*, and
4. There are reasonable and probable grounds that the funding requirements of the *Act* and regulations cannot be satisfied. The administrator has estimated the deficit in the plan at the wind up date to be **\$1,707,787**. If funds become available from the estate of the employer, the administrator will be required to make an appropriated refund of any allocation amount received by the Plan from the Pension Benefits Guarantee Fund.

DATED at Toronto, Ontario, this 10th day of January, 2006

Tom Golfetto
Director, Pension Plans Branch by Delegated Authority from the Superintendent of Financial Services

IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 83 and 89 of the
Act, respecting the **Pension Plan for Slater
Stainless Corp. Members of the National
Automobile, Aerospace, Transportation
and General Workers Union** (the "Plan")
Registration Number **0561456**.

TO: David Kearney
Principal
**Morneau Sobeco Limited
Partnership**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Paul Davis
Vice President, Administration
Slater Stainless Corp.
Markborough Place
6711 Mississauga Road, Ste. 202
Mississauga, ON L5N 2W3

Employer

AND TO: Jeff Rosenberg
PricewaterhouseCoopers Inc.
145 King Street West
Toronto, ON M5H 1V8

Receiver

AND TO: Sym Gill
National representative
Caw Canada
250 Placer Court
Toronto, ON M2H 3M9

Union Representative

DECLARATION

NO request requiring a hearing was delivered
to the Financial Services Tribunal within
the time prescribed by subsection 89(6) of
the *Act* requesting a Notice of Proposal to
make a Declaration that the Pension Benefits
Guarantee Fund applies to the Plan.

I DECLARE pursuant to sections 83 and 89
of the *Act* that the Pension Benefits Guarantee
Fund (Guarantee Fund) applies to the Plan for
the following reasons:

1. The Plan is registered under the *Act*, and
2. The Plan provides defined benefits that
are not exempt from the application of the
Pension Benefits Guarantee Fund by the *Act*
or the regulations made thereunder, and
3. The plan was wound up effective **May 5,
2004**, and
4. There are reasonable and probable
grounds that the funding requirements
of the *Act* and regulations cannot be
satisfied. The administrator has estimated
the deficit in the plan as January 1, 2002, to
be **\$15,625,000**. If funds become available
from the estate of the employer, the
administrator will be required to make
an appropriate refund of any allocation
amount received by the Plan from the



Pension Benefits Guarantee Fund.

DATED at Toronto, Ontario, this 21st day of February, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the "*Act*");

AND IN THE MATTER of a Proposal of the
Superintendent of Financial Services to make
an Order under section 83 and 89 of the *Act*,
respecting the **Decor Products International,**
a Division of Kleco Corporation Hourly
Pension Plan (the "*Plan*") Registration
Number 0696864.

TO: David R. Kearney
Principal
Morneau Sobeco Limited
Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Ron Henderson
Controller
Decor Products International,
a Division of Kleco Corporation
140 Bay Street
Midland, ON M5H 3T4

Employer

AND TO: Wayne Palmer
Trustee
RSM Richter Inc.
200 King Street West, Suite 1100
Toronto, ON M5H 3T4

Trustee in Bankruptcy

AND TO: Wayne Latour
National Representative
The National Automobile,
Aerospace and Agricultural
Implement Workers of Canada
(CAW-Canada) Local 1411
P.O. Box 550
Midland, ON L4R 4L3

Union Representative

DECLARATION

NO request requiring a hearing was delivered
to the Financial Services Tribunal within
the time prescribed by subsection 89(6) of
the *Act* requesting a Notice of Proposal to
make a Declaration that the Pension Benefits
Guarantee Fund applies to the Plan.

I DECLARE pursuant to sections 83 and 89
of the *Act* that the Pension Benefits Guarantee
Fund (Guarantee Fund) applies to the Plan for
the following reasons:

1. The Plan is registered under the *Act*, and
2. The Plan provides defined benefits that
are not exempt from the application of the
Pension Benefits Guarantee Fund by the *Act*
or the regulations made thereunder, and
3. The plan was wound up effective **March**
8, 2005, and
4. There are reasonable and probable
grounds that the funding requirements
of the *Act* and regulations cannot be
satisfied. The administrator has estimated
the deficit in the plan at the wind up
date to be **\$1,110,000**. If funds become
available from the estate of the employer,

the administrator will be required to make an appropriate refund of any allocation amount received by the Plan from the Pension Benefits Guarantee Fund.

DATED at Toronto, Ontario, this 5th day of April, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services





IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of a Proposal of
the Superintendent of Financial Services to
make an Order under section 83 and 89 of the
Act, respecting the **Pension Plan for Hourly
Employees of Chun King Canada Inc.** (the
"Plan") Registration Number **0597450**.

TO: Debbie Gallagher
Consultant
Morneau Sobeco Limited
Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Pension Plan Administrator
Chun King of Canada Inc.
1019 Elliot Street West
Windsor, ON N9A 5Z8

Employer

AND TO: Ron Milkins
**United Food and Commercial
Workers Union Local 459**
261 Erie Street
Leamington, ON N8H 3C4

Union Representative

DECLARATION

NO REQUEST requiring a hearing was
delivered to the Financial Services Tribunal
within the time prescribed by subsection 89(6)
of the *Act* requesting a Notice of Proposal to
make a Declaration that the Pension Benefits

Guarantee Fund applies to the Plan.

I DECLARE pursuant to sections 83 and 89
of the *Act* that the Pension Benefits Guarantee
Fund (Guarantee Fund) applies to the Plan for
the following reasons:

1. The Plan is registered under the *Act*, and
2. The Plan provides defined benefits that
are not exempt from the application of the
Pension Benefits Guarantee Fund by the *Act*
or the regulations made thereunder, and
3. The plan was wound up effective
December 1, 1991, and
4. There are reasonable and probable
grounds that the funding requirements of
the *Act* and regulations cannot be satisfied.
The administrator has estimated the
deficit in the plan at the wind up date to
be **\$209,100**. Based on the latest actuarial
certification, there is an estimated claim
against the Guarantee Fund of **\$550,000**.
as at February 1, 2006. If funds become
available from the estate of the employer,
the administrator will be required to make
an appropriate refund of any allocation
amount received by the Plan from the
Pension Benefits Guarantee Fund.

DATED at Toronto, Ontario, this 9th day of
May, 2006.

Tom Golfetto
Director, Pension Plans Branch by Delegated
Authority from the Superintendent of
Financial Services



Allocations of Money from the Pension Benefits Guarantee Fund

IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of an Order made
by the Superintendent of Financial Services
under section 83 of the *Act*, respecting the
Pension Plan for Slater Stainless Corp.
Members of the United Steelworkers of
America (Local 7777) (the "Plan" Registration
Number **0561464**).

TO: David R. Kearney
Principal
Morneau Sobeco Limited
Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Paul Davis
Vice President, Administration
Slater Stainless Corp.
Markborough Place
6711 Mississauga Road, Ste. 202
Mississauga, ON L5N 2W3

Employer

AND TO: Jeff Rosenberg
PricewaterhouseCoopers Inc.
145 King Street West
Toronto, ON M5G 1V8

Trustee in Bankruptcy

AND TO: Ron Mattie
Local President
United Steelworkers of
America, Local 7777
234 Eglinton Avenue East,
Suite 800
Toronto, ON M4P 1K7

Union Representative

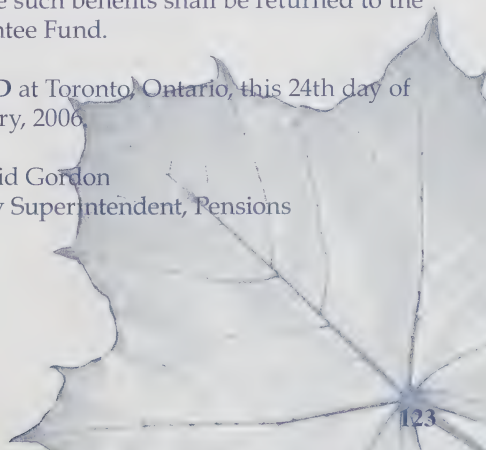
ALLOCATION

WHEREAS on **February 21, 2006**, the Director,
Pension Plans Branch, by order and by
delegated authority from the Superintendent
of Financial Services declared, pursuant to
sections 83 and 89 of the *Act*, that the Pension
Benefits Guarantee Fund (the "Guarantee
Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the *Act* (the "Regulation"),
an amount not to exceed **\$9,324,700** which
together with the Ontario assets of the
Pension Plan, will provide for the benefits
determined in accordance with section 34 of
the Regulation. Any money allocated from
the Guarantee Fund but not required to
provide such benefits shall be returned to the
Guarantee Fund.

DATED at Toronto, Ontario, this 24th day of
February, 2006.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P8, as amended (the *Act*);

AND IN THE MATTER of an Order made
by the Superintendent of Financial Services
under section 83 of the *Act*, respecting the
Pension Plan for Slater Stainless Corp.
Members of the National Automobile,
Aerospace, Transportation and General
Workers Union (CAW-Canada) (the "Plan")
Registration Number 0561456.

TO: David R. Kearney
Principal
Morneau Sobeco Limited
Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Paul Davis
Vice President, Administration
Slater Stainless Corp.
Markborough Place
6711 Mississauga Road, Ste. 202
Mississauga, ON L5N 2W3

Employer

AND TO: Jeff Rosenberg
PricewaterhouseCoopers Inc.
145 King Street West
Toronto, ON M5G 1V8

Trustee in Bankruptcy

AND TO: Sym Gill
National Representative
CAW Canada
250 Placer Court
Toronto, ON M2H 3M9

Union Representative

ALLOCATION

WHEREAS on **February 21, 2006**, the
Director, Pension Plans Branch, by order
and by delegated authority from the
Superintendent of Financial Services declared,
pursuant to sections 83 and 89 of the *Act*, that
the Pension Benefits Guarantee Fund (the
"Guarantee Fund") applies to the Pension
Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the *Act* (the "Regulation"),
an amount not to exceed **\$73,911,800** which
together with the Ontario assets of the
Pension Plan, will provide for the benefits
determined in accordance with section 34 of
the Regulation. Any money allocated from
the Guarantee Fund but not required to
provide such benefits shall be returned to the
Guarantee Fund.

DATED at Toronto, Ontario, this 24th day of
February, 2006.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the *Act*);

AND IN THE MATTER of an Order made
by the Superintendent of Financial Services
under section 83 of the *Act*, respecting the
Servifood Ltd. Pension Plan (the Pension
Plan), Registration Number **684225**.

TO: David R. Kearney
Morneau Sobeco
895 Don Mills Road, Suite 700
1 Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Real Morin
President
Servifood Ltd.
180 blvd. Rene Levesque Est
Suite 408
Montreal, Quebec H2X 1N6

Employer

AND TO: Ronald P. Gagnon, LL.B.
Senior Manager, Financial
Advisory
**Samson Belair/Deloitte &
Touche Inc.**
1111 rue St.-Charles Ouest
Bureau 550 - Tour Est
Longueuil, Quebec J4K 5G4

Trustee in Bankruptcy

AND TO: Charlie Renaud
**Service Employees
International Union (Local 204)**
2180 Steeles Avenue W., Suite 200
Concord, ON L4K 2Z5

Union Representative

ALLOCATION

WHEREAS on **February 21, 2006**, the Director,
Pension Plans Branch, by order and by
delegated authority from the Superintendent
of Financial Services declared, pursuant to
sections 83 and 89 of the *Act*, that the Pension
Benefits Guarantee Fund (the "Guarantee
Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the *Act* (the "Regulation"),
an amount not to exceed **\$1,024,100** which
together with the Ontario assets of the
Pension Plan, will provide for the benefits
determined in accordance with section 34 of
the Regulation. Any money allocated from
the Guarantee Fund but not required to
provide such benefits shall be returned to the
Guarantee Fund.

DATED at Toronto, Ontario, this 27th day of
February, 2006.

K. David Gordon
Deputy Superintendent, Pensions

IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");

AND IN THE MATTER of an Order made by the Superintendent of Financial Services under section 83 of the Act, respecting the **Canadian Drawn Steel Company Inc. Bargaining Unit Pension Plan for Members of United Steelworkers of America** (the "Plan") Registration Number **0988444**.

TO: David R. Kearney
Principal
Morneau Sobeco Limited Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Robert Boylan
Controller
Canadian Drawn Steel Inc.
155 Chatham Street
Hamilton, ON L8P 2B7

Employer

ALLOCATION

WHEREAS on **January 10, 2006**, the Director, Pension Plans Branch, by order and by delegated authority from the Superintendent of Financial Services declared, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the "Guarantee Fund") applies to the Pension Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990,

Reg. 909, under the Act (the "Regulation"), an amount not to exceed **\$4,527,200** which together with the Ontario assets of the Pension Plan, will provide for the benefits determined in accordance with section 34 of the Regulation. Any money allocated from the Guarantee Fund but not required to provide such benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 27th day of March, 2006.

K. David Gordon
Deputy Superintendent, Pensions

IN THE MATTER of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the “*Act*”);

AND IN THE MATTER of an Order made by the Superintendent of Financial Services under section 83 of the *Act*, respecting the **Canadian Drawn Steel Company Inc. Retirement Plan for Salaried Employees** (the “*Plan*”) Registration Number **0988196**.

TO: David R. Kearney
Principal
Morneau Sobeco Limited Partnership
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Robert Boylan
Controller
Canadian Drawn Steel Inc.
155 Chatham Street
Hamilton, ON L8P 2B7

Employer

ALLOCATION

WHEREAS on **December 21, 2005**, the Director, Pension Plans Branch, by order and by delegated authority from the Superintendent of Financial Services declared, pursuant to sections 83 and 89 of the *Act*, that the Pension Benefits Guarantee Fund (the “*Guarantee Fund*”) applies to the Pension Plan;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Pension Plan, pursuant to subsection 34(7) of R.R.O. 1990,

Reg. 909, under the *Act* (the “*Regulation*”), an amount not to exceed **\$3,026,100** which together with the Ontario assets of the Pension Plan, will provide for the benefits determined in accordance with section 34 of the Regulation. Any money allocated from the Guarantee Fund but not required to provide such benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 27th day of March, 2006.

K. David Gordon
Deputy Superintendent, Pensions



IN THE MATTER of the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended (the “*Act*”);

AND IN THE MATTER of an Order made
by the Superintendent of Financial Services
under section 83 of the *Act*, respecting the
**Pension Plan for Hourly Employees of Chun
King Canada Inc.** (the “*Plan*”) Registration
Number **0597450**.

TO: Al Kiel
Partner
**Morneau Sobeco Limited
Partnership**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto, ON M3C 1W3

Administrator

AND TO: Pension Plan Administrator
Chun King of Canada Inc.
1019 Elliot Street West
Windsor, ON N9A 5Z8

Employer

AND TO: Ron Milkins
**United Food and Commercial
Workers Union Local 459**
261 Erie Street
Leamington, ON N8H 3C4

Union Representative

ALLOCATION

WHEREAS on **May 9, 2006**, the Director,
Pension Plans Branch, by order and by
delegated authority from the Superintendent
of Financial Services declared, pursuant to
sections 83 and 89 of the *Act*, that the Pension

Benefits Guarantee Fund (the “*Guarantee
Fund*”) applies to the Pension Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the *Act* (the “*Regulation*”),
an amount not to exceed **\$447,500** which
together with the Ontario assets of the Plan,
will provide for the benefits determined in
accordance with section 34 of the Regulation.
Any money allocated from the Guarantee
Fund but not required to provide such
benefits shall be returned to the Guarantee
Fund.

DATED at Toronto, Ontario, this 26th day of
May, 2006.

K. David Gordon
Deputy Superintendent, Pensions

FINANCIAL SERVICES TRIBUNAL ACTIVITIES

Appointments of Financial Services Tribunal Board Members

<u>Name and O.C.</u>	<u>Effective Appointment Date</u>	<u>Expiry Date</u>
McNairn, Colin (Chair)		
O.C. 1518/2004	August 11, 2004	August 10, 2006
O.C. 1192/2004	June 9, 2004	September 8, 2004
O.C. 1623/2001	June 20, 2001	June 19, 2004
O.C. 1809/98	July 8, 1998	July 7, 2001
Corbett, Anne (Vice-Chair)		
O.C. 1519/2004	August 11, 2004	August 10, 2006
O.C. 1193/2004	June 9, 2004	September 8, 2004
O.C. 1438/2001	June 20, 2001	June 19, 2004
Solursh, John M. (Vice-Chair)		
O.C. 2407/2004	February 25, 2005	February 24, 2008
O.C. 1521/2004	August 11, 2004	August 10, 2006
Bharmal, Shiraz Y.M.		
O.C. 1466/2005	September 21, 2005	September 20, 2008
O.C. 1511/2002	September 9, 2002	September 8, 2005
Brown, Martin J. K.		
O.C. 1522/2004	August 11, 2004	August 10, 2006
Erllichman, Louis		
O.C. 1082/2005	June 22, 2005	June 21, 2008
O.C. 44/2005	January 22, 2005	July 21, 2005
O.C. 439/2002	January 23, 2002	January 22, 2005
O.C. 2527/98	December 9, 1998	December 8, 2001
O.C. 1592/98	June 17, 1998	December 16, 1998
Gavin, Heather		
O.C. 1083/2005	June 22, 2005	June 21, 2008
O.C. 45/2005	January 22, 2005	July 21, 2005
O.C. 440/2002	January 23, 2002	January 22, 2005
O.C. 11/99	January 13, 1999	January 12, 2002
Harmer, Lily		
O.C. 2043/2004	December 1, 2004	November 30, 2006

Appointments of Financial Services Tribunal Board Members

<u>Name and O.C.</u>	<u>Effective Appointment Date</u>	<u>Expiry Date</u>
Holden, Florence A. O.C. 1523/2004	August 11, 2004	August 10, 2006
Litner, Paul W. O.C. 1465/2005 O.C. 1512/2002	September 21, 2005 September 9, 2002	September 20, 2008 September 8, 2005
Scane, Ralph Edward O.C. 1520/2004	August 11, 2004	August 10, 2006
Shilton, Elizabeth O.C. 758/2005	May 18, 2005	May 17, 2008
Short, David A. O.C. 2095/2004 O.C. 2118/2001	November 3, 2004 October 24, 2001	November 2, 2006 October 23, 2004

Pension Hearings Before the Financial Services Tribunal

Revised Retirement Plan for Employees of the Allen-Bradley Division of Rockwell International of Canada (now the Pension Plan for Employees of Rockwell Automation Canada Inc.), Registration Number 321554, and the Pension Plan for Salaried and Management Employees of Reliance Electric Limited, Registration Number 292946; FST File Number P0051-1999;

On May 18, 1999, certain members (the "Applicants") of the Pension Plan for Salaried and Management Employees of Reliance Electric Limited (the "Reliance Plan") requested a hearing regarding a decision of the Director of the Pension Plans Branch of the Financial Services Commission of Ontario, dated March 30, 1999, acting under delegated authority from the Superintendent of Financial Services (the "Superintendent"), to consent to the transfer of assets from the Reliance Plan to the Revised Retirement Plan for Employees of the Allen-Bradley Division of Rockwell International of Canada (the "Rockwell Plan").

On June 2, 1999, an application for party status was filed by Rockwell Automation Canada Inc. At the pre-hearing conference on July 6, 1999 full party status was granted. The matter was then adjourned sine die as the Applicants indicated that an application would be made to the Superintendent requesting a wind up of the Reliance Plan and all parties agreed that it would be premature to proceed in this matter until the Superintendent has made a decision respecting the request for wind up. By letter of September 14, 2000, the request for wind up was denied.

The pre-hearing conference resumed on January 20, 2005, and subsequently continued on May 2, June 16, July 11 and November 9, 2005. The hearing was scheduled to proceed on November 16, and continue on November 21 and 22, 2005. On November 15, 2005, the Applicants requested an adjournment to November 21, 2005, on consent of all parties. That request was granted. The hearing was held on November 21, 2005. In a decision dated February 20, 2006, the Tribunal upheld the decision of the Superintendent to consent to the transfer of assets from the Reliance Plan to the Rockwell Plan. The Reasons for Decision were published in Volume 15, Issue 1 of the Pension Bulletin.

On March 8, 2006, a Notice of Appeal was filed by Michael Lennon, on behalf of the members of the Reliance Plan, with the Ontario Divisional Court.

Schering-Plough Healthcare Products Canada Inc. Salaried Employees' Pension Plan, Registration Number 297903; FST File Number P0085-1999;

On November 10, 1999, Schering-Plough Healthcare Products Canada Inc. filed a request for hearing regarding the Superintendent's Notice of Proposal dated October 14, 1999, ordering Schering-Plough Healthcare Products Canada Inc. to amend the partial wind up report with respect to its salaried pension plan as at August 31, 1996, so that provision is made for the distribution of the surplus attributable to the partial wind up group. On March 27, 2000, Ken Reynolds, Michel Gariépy, Edward Taylor and Jim Wilson, being some of the members of the partial wind up group, filed an application for party status.

The matter was adjourned sine die on May 10, 2000 pending the outcome of the Monsanto case. On July 29, 2004, the Supreme Court of Canada released its decision in the Monsanto case. On September 2, 2004, the Superintendent requested that a pre-hearing conference be scheduled.

The pre-hearing conference scheduled on December 15, 2004, was adjourned on consent of the parties and rescheduled for March 30, 2005. On March 10, 2005, the parties advised that a revised partial wind up report was filed with the Superintendent and requested that the pre-hearing conference, rescheduled for March 30, 2005, be adjourned pending the issue of an amended notice of proposal. On March 14, 2005, the matter was adjourned sine die. On June 3, 2005, the Superintendent requested that the matter be brought back on for a pre-hearing conference. At the pre-hearing conference on September 27, 2005 full party status was granted to the Estate of Ken Reynolds, Michel Gariepy, Edward Taylor and Jim Wilson. On January 9, 2006 the Tribunal heard oral arguments from the parties. In its Reasons for Decision dated April 12, 2006, the Tribunal upheld the Superintendent's Notice of Proposal. The Reasons are published in this bulletin on page 155.

Slater Steel Inc. Pension Plan for Corporate Employees and Salaried Employees of the Hamilton Specialty Bar Division, Registration Number 308338; FST File Number P0203-2002;

On June 2, 2003, an Order was issued by the Ontario Superior Court of Justice in relation to Slater Steel Inc. pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36. The Order includes a stay of all

proceedings. The hearing in this matter originally scheduled for October 8-10, 15-16, 2003, therefore, did not proceed.

On February 23, 2006, the Tribunal issued to the Applicant, a Notice of Intention to Dismiss the proceeding in accordance with Rule 37 of the Rules of Practice and Procedure for Proceedings Before the Financial Services Tribunal. On March 23, 2006, the Tribunal extended the notice period to April 10, 2006, in response to a request from a group of affected Plan members whose interests might be adversely affected by the Superintendent's proposed partial wind up order, which was the subject of the proceeding before the Tribunal. The basis of the request was to permit time for steps to be taken to review the Plan documents and related materials and to obtain expert actuarial advice. On April 12, 2006, in the absence of any further representations from the potentially affected Plan members, the Tribunal dismissed the matter and issued a Notice of Dismissal.

Paramount Pictures (Canada) Inc., Retirement Plan for Salaried Employees of Famous Players and Subsidiary and Affiliated Companies, Registration Number 552752; FST File Number P0248-2005;

On January 7, 2005, Paramount Pictures (Canada) Inc. (the "Employer") requested a hearing regarding three Notices of Proposal of the Deputy Superintendent, Pensions, dated December 3, 2004, proposing to:

- refuse to approve a report, dated May 7, 2002, on the actuarial valuation of the retirement plan for the salaried employees of the Employer (the "Pension Plan") as at December 31, 2001;

- refuse consent to an application, dated January 9, 2003, submitted by the Employer, for the withdrawal of surplus on the wind up of the Pension Plan; and
- make an Order winding up the Pension Plan effective December 31, 2001.

The approval and consent were sought by the Employer pursuant to ss. 70(5), and 78(1), respectively, of the Pension Benefits Act (the "Act") and the Order was proposed to be made by the Deputy Superintendent under s. 69(1)(a) of the Act.

The Deputy Superintendent refused to approve the report on the actuarial valuation of the Pension Plan because the proposal to wind up the Plan was not unconditional, being dependent on the Employer obtaining the necessary regulatory and court approvals, and because the report did not, apparently, include all the members affected by the Plan termination.

The request for approval of the surplus withdrawal application was refused because:

- the Pension Plan was not being wound up given the contingent nature of the wind up proposal, in which case consent of all the Plan members to any withdrawal of surplus was required, as it was an on-going pension plan, but such unanimous approval was not obtained;
- the Plan did not provide for payment of surplus to the Employer on wind up of the Plan as there was a trust, for the benefit of the members of the Plan, in respect of the pension fund for the Plan and as no power was reserved to

revoke that trust, the amendments to the terms of the trust providing that, at termination of the Plan, any surplus in the pension fund should be paid to the Employer, were invalid.

The Deputy Superintendent proposed to make the Order winding up the Pension Plan, effective December 31, 2001, on the basis that as at May 31, 2001 there was a cessation of employer contributions to the pension fund as evidenced by notices sent by the Employer to the members on that date proposing to terminate the Plan and share the surplus with the members and by the report on the actuarial valuation of the Plan as at December 31, 2001, which indicated that there were no active members and that the Employer was not required to make contributions to the Plan.

The pre-hearing conference scheduled for April 5, 2005 was adjourned on March 31, 2005, at the request of the parties, in favour of a settlement conference. After a settlement conference held on June 1, 2005, the parties agreed to inform the Registrar when they wished to proceed with the matter before the Tribunal.

On August 4, 2005, Gerry Dillon, a former member of the Plan, acting in a representative capacity in the interests of all plan beneficiaries, filed an application for party status. On September 23, 2005, the pre-hearing conference resumed at which time full party status was granted to Mr. Dillon. The parties sought an adjournment of the proceedings on the basis that a class action proceeding was about to be commenced in the Ontario Superior Court with respect to the issue of entitlement to surplus. The parties anticipated that the action would be certified.

as a class proceeding in October 2005, and that the application would be heard by the Court in January 2006. In order to permit the application to proceed, the Tribunal ordered the pre-hearing conference adjourned to January 31, 2006.

At a resumption of the pre-hearing conference on January 31, 2006, the matter was further adjourned to April 26, 2006, since the date of April 11, 2006 had been scheduled as the date for the Ontario Superior Court of Justice to consider a proposed settlement in the class action. The resumption of the pre-hearing conference was subsequently adjourned to May 4, 2006 and then further adjourned to May 29, 2006. At the May 29, 2006 pre-hearing conference, the matter was further adjourned to September 21, 2006 to permit time for the conclusion of the court proceedings.

Donna Capaldi; Retirement Income Plan for Union Employees of Dominion Stores Limited (1979), Registration Number 0005188; FST File Number P0253-2005;

On June 1, 2005, Donna Capaldi, (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated May 10, 2005, refusing to make an order under sections 42(5), 42(11), and 87(2)(c) of the Pension Benefits Act, requiring the administrator of the Plan to pay certain pension benefits from the Retirement Income Plan for Union Employees of Dominion Stores Limited (1979) to Donna Capaldi, beneficiary of Tony (Antonio) Capaldi.

On August 4, 2005, an application for party status, in this matter, was filed by Domgroup Ltd. (formerly Dominion Stores Limited), the

employer and administrator of the Plan. At the pre-hearing conference on October 3, 2005, full party status was granted to Domgroup Ltd.

On November 18, 2005, Domgroup Ltd. filed a Notice of Motion to add Industrial Alliance Insurance ("Industrial Alliance") as a party in this proceeding. That motion was denied by an interim procedural order dated January 9, 2006.

The hearing date of January 24, 2006, was adjourned at the request of the Applicant and on consent of the parties to February 6, 2006. At the hearing on February 6, 2006, the Tribunal considered whether the Applicant had established whether Mr. Capaldi's full pension entitlement was paid from the Plan to his RRSP according to his election, as the Applicant had disputed the amount of the monies transferred. In its Reasons for Decision, the Tribunal found that the Applicant had not established that there was a failure to pay the full amount of Mr. Capaldi's pension entitlement to his RRSP and, therefore, dismissed the Applicant's request and affirmed the Superintendent's Notice of Proposal. The Reasons for Decision dated March 13, 2006 are published in this bulletin on page 149.

Shoppers Drug Mart Inc., Pension Plan for Executives of Shoppers Drug Mart Inc. Registration Number 1066083; FST File Number P0256-2005;

On July 8, 2005, Shoppers Drug Mart Inc. (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated June 8, 2005, to make an order, under section 69 of the Pension Benefits Act, that the Plan be wound up in part in relation to those members of the



Plan who ceased to be members of the Plan as a result of cessation of employment with the Applicant on or before January 15, 2003.

The Notice of Proposal indicates that the reasons for the proposed order are that:

- the members who ceased employment with the Applicant during the relevant period did so as a result of a reorganization of the business of the Applicant and represented a significant number of members of the Plan; and
- the Applicant had not offered all of those members the same level of termination benefits, under an unregistered supplementary pension plan, that would be available under the Act in the event of a partial wind up of the Plan, in which case there was no discretionary basis for the Superintendent refusing to order a partial wind up.

The pre-hearing conference was held on November 17, 2005, at which time the parties agreed to continue with the pre-hearing conference on April 3, 2006 in order to deal with disclosure and interrogatory issues. On March 3, 2006, an application for party status was filed by Eddie Mainiero, a member of the Plan, and full party status was granted to Mr. Mainiero on April 3, 2006. At the pre-hearing conference, the parties agreed to participate in a settlement conference. The settlement conference is scheduled for September 20, 2006.

Hydro One Members Committee; Hydro One Pension Plan Registration Number 1059104; FST File Number P0257-2005;

On July 29, 2005, the Hydro One Members Committee, (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated July 14, 2005, refusing to make an order, under section 69 of the Pension Benefits Act (the "Act"), that the Plan be wound up in part in relation to those members of the Plan whose employment terminated between January 1, 2002 and December 31, 2002.

The Notice of Proposal recites that:

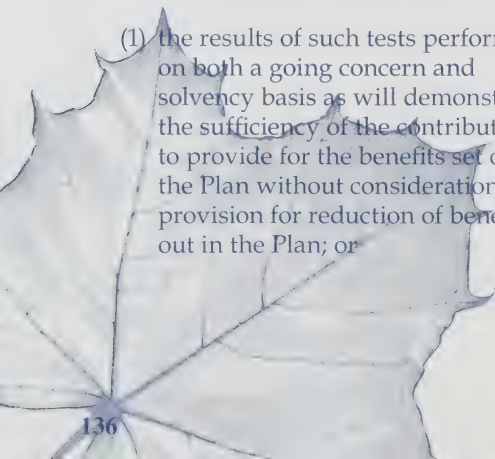
- the Superintendent received no evidence that four "initiatives", announced by Hydro One Inc., which resulted in the cessation of these members, were connected;
- two of the "initiatives" did have such a result, but the affected members were part of an early retirement program and they received benefits at least equal to those they would have received on a partial wind up and they received benefit enhancements paid out of surplus assets, in which case there was a discretionary basis for the Superintendent declining to order a partial wind up of the Plan; and
- one of the "initiatives" involved an asset transfer under section 80 of the Act, in which case the affected members employment was deemed to have continued.

On August 24, 2005, an application for party status, in this matter, was filed by Hydro One Inc. On September 19, 2005, an application for party status was filed by the Power Workers' Union. On December 9, 2005, an application for party status was filed by the Society of Energy Professionals.

The pre-hearing conference was held on December 20, 2005, at which time the two applications for party status were granted. On May 1, 2006, the parties participated in a settlement conference to deal with issues surrounding disclosure. On May 8, 2006, the Tribunal heard a motion brought by the Applicants for production of documents and interrogatories at which time the Tribunal reserved its decision. The hearing in this matter is scheduled for October 3, 4, 5 and 6, 2006.

Board of Trustees of the Labourers Pension Fund of Central and Eastern Canada, Registration Number 0573188; FST File Number P0258-2005;

On August 4, 2005, the Board of Trustees of the Labourers Pension Fund of Central and Eastern Canada (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated July 7, 2005, proposing to order the administrator of the Plan, pursuant to section 88 of the Pension Benefits Act, to prepare and file a new actuarial valuation report as at December 31, 2003, in respect of the Plan, that complies with sections 6, 14, 16 and 17 of Regulation 909, (the "Regulation") and, specifically, which includes either,

- 
- (1) the results of such tests performed on both a going concern and solvency basis as will demonstrate the sufficiency of the contributions to provide for the benefits set out in the Plan without consideration of any provision for reduction of benefits set out in the Plan; or

- (2) where contributions are not sufficient to provide the benefits under the Plan as determined on both a going concern and solvency basis, a proposal by the actuary of options available to the administrator of the Plan that will have the result that the required contributions will be sufficient to provide the benefits under the Plan on both a going concern and solvency basis.

At a pre-hearing conference on November 1, 2005, the parties agreed to schedule a motion to deal with disclosure of documents, interrogatories, and the admissibility of certain documents and to determine the recipients of any notice of hearing. The motion was scheduled for April 24, 2006. On April 4, 2006, the Applicant withdrew the Request for Hearing.

Jerry Coelho, Kerry Wilson, and the Trustees of the Canadian Bricklayers and Allied Craft Union Members Pension Trust, Bricklayers & Trowel Trades International Pension Plan, Registration Number 392175; Canadian Bricklayers and Allied Craft Union Members Pension Trust, Registration Number 1063478; FST File Number P0259-2005;

On September 27, 2005, Kerry Wilson and the Trustees of the Canadian Bricklayers and Allied Craft Union Members Pension Trust ("CMPT") (the "Applicants"), requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated September 13, 2005, refusing to order the Board of Trustees of the Bricklayers and Trowel Trades International Pension Plan, Registration Number 392175 (the

"International Plan") to transfer certain assets of the International Plan to the Canadian Bricklayers and Allied Craft Union Members Pension Trust, Registration Number 1063478 pursuant to section 80(8) and (9) of the Pension Benefits Act (the "Act"). The reason for the proposed refusal, as stated in the Notice of Proposal, was that the International Plan had been effectively wound up, on a voluntary basis, so that there was no plan from which to transfer the assets pursuant to section 80(8) and (9) of the Act.

On November 1, 2005, an application for party status in this matter was filed by the Board of Trustees of the Bricklayers and Trowel Trades International Pension Plan (the "Trustees of IPF Canada").

At a pre-hearing conference on January 16, 2006, full party status was granted to the Trustees of IPF Canada. At the pre-hearing conference, the parties agreed to schedule a motion to resolve the jurisdictional issue raised by the Trustees of IPF Canada, i.e. whether the request for hearing was filed out of time, as well as an adjournment request made by the Trustees of IPF Canada. The motion was scheduled for April 6, 2006, and was further rescheduled to May 25, 2006, to accommodate the parties' request to participate in a settlement conference which took place on April 6, 2006. On May 15, 2006, the parties filed a joint request for adjournment of the motion hearing date to allow for further settlement discussions to take place. The adjournment request was granted and the motion hearing is rescheduled for October 31, 2006.

**Bricklayers & Trowel Trades
International Pension Fund – Canada,**

**Registration Number 0392175;
FST File Number P0261-2005;**

On October 25, 2005, the Board of Trustees of the Bricklayers & Trowel Trades International Pension Fund – Canada (the "Applicant"), requested a hearing regarding two Notices of Proposal of the Deputy Superintendent, Pensions, dated October 4, 2005, proposing to order the administrator of the Plan, referred to below, to prepare and file new actuarial valuation reports, as at January 1, 2003 and December 31, 2003, in respect of the Bricklayers & Trowel Trades International Pension Fund – Canada, Registration Number 0392175 (the "Plan") that comply with sections 6, 14, 16 and 17 of Regulation 909 (the "Regulation") and, specifically, which include either,

- (1) the results of such tests performed on both a going concern and solvency basis as will demonstrate the sufficiency of the contributions to provide for the benefits set out in the Plan without consideration of any provision for reduction of benefits set out in the Plan; or
- (2) where contributions are not sufficient to provide the benefits under the Plan as determined on both a going concern and solvency basis, a proposal by the actuary of options available to the administrator of the Plan that will have the result that the required contributions will be sufficient to provide the benefits under the Plan on both a going concern and solvency basis.

At a pre-hearing conference on January 26, 2006, the Applicant indicated that it was

seeking the same disclosure of documents and replies to interrogatories that were being sought in the Labourers proceeding (FST File Number P0258-2005). The Applicant did not intend to bring a separate motion in this proceeding but agreed to be bound by the results of the disclosure motion in the Labourers proceeding. The matter was adjourned sine die on consent, pending the resolution of the disclosure motion in the Labourers proceeding.

At a settlement conference on March 27, 2006, the parties held discussions and agreed to resume the settlement conference on June 13, 2006.

Board of Trustees; International Union of Painters and Allied Trades Province of Ontario Pension Plan, Registration Number 391680; FST File Number P0262-2005;

On November 14, 2005, the Board of Trustees of the International Union of Painters and Allied Trades of Ontario Pension Plan (the "Applicants") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated October 19, 2005, proposing to make an order that the Painters and Allied Trades Pension Plan (the "Plan") be administered by the Board of Trustees of the Plan without regard to Amendment No. 3 to the Plan, dated May 1, 1998, and to revoke the registration of Amendment No. 3 to the Plan.

Amendment No. 3 provides that the Residential Painting Contractors of Ontario, one of several associations and unions that entered into the agreement and declaration of trust (the "Trust Agreement") by which the trust fund for the Plan was established,

shall no longer appoint members to the board of trustees for the Plan and that trustees appointed by it tender their resignations, which resignations are accepted.

The stated basis for the Notice of Proposal is that Amendment No. 3 was not an effective amendment because it wasn't executed by all of the parties to the Trust Agreement in accordance with the amending provision of that Agreement and the terms of the Amendment were not consistent with the provisions of the Trust Agreement establishing procedures for the resignation and removal of trustees.

On December 14, 2005, an application for party status in this matter was filed by the Acoustical Association of Ontario, another party to the Trust Agreement.

On February 2, 2006, an application for party status in this matter was filed by the Residential Painting Contractors of Ontario.

A pre-hearing conference was scheduled for March 29, 2006. On March 27, 2006, the Applicants withdrew the Request for Hearing.

Elaine Desforges and Michael Kozlowski; Retired Income Plan of Falconbridge Limited and Associated Companies, Registration Number 0215046; FST File Number P0264-2005;

On December 16, 2005, Elaine Desforges and Michael Kozlowski (the "Applicants") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated November 24, 2005, proposing to refuse to make an order that Elaine Desforges and Michael Kozlowski be included

in the voluntary partial wind up effective January 1, 2000 of the Falconbridge Limited pension plan (the "Plan"), pursuant to section 69(1)(d) of the Pension Benefits Act.

The refusal of the Deputy Superintendent to make the order requested by the Applicants was based on his conclusions that:

- the Applicants were terminated outside the wind up period in respect of the voluntary partial wind up associated with the reorganization of Falconbridge's Sudbury Division;
- there was no reorganization of Falconbridge's Technology Centre, where the Applicants worked; and
- if there was such a reorganization, it did not affect a significant number of members of the Plan.

On January 11, 2006, an application for party status was filed in this matter by Falconbridge Limited.

On March 7, 2006, the pre-hearing conference scheduled for March 22, 2006 was adjourned to May 24, 2006, to permit the Applicants' newly retained counsel time to prepare for the pre-hearing conference. At the pre-hearing conference on May 24, 2006, full party status was granted to Falconbridge Limited and the parties agreed to resume the pre-hearing conference on August 18, 2006 in order to permit time for the production of documents.

Honeywell ASCa Inc.; Allied Signal Canada Inc. Retirement Plan for Salaried Employees (now Honeywell ASCa Retirement Plan for

Salaried Employees), Registration Number 0222695; FST File Number P0265-2006;

On January 20, 2006, Honeywell ASCa Inc. requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated December 22, 2005, proposing to refuse to approve an actuarial report on the partial wind up, as at December 31, 1992, of the pension plan now called the Honeywell ASCa Retirement Plan for Salaried Employees (the "Plan") in relation to the members and former members of the Plan who ceased to be employed as a result of the closure of the Bendix Heavy Vehicle Systems location in London, Ontario on or about December 31, 1992. The Deputy Superintendent also proposed, in the same Notice of Proposal, to order that an amended partial wind up report be prepared and filed providing for an immediate distribution to the members and former members affected by the partial wind up of all the surplus related to the partial wind up.

The basis for the proposal to refuse to approve the partial wind up report was its failure to set out the methods of allocating and distributing surplus assets related to the wound up portion of the Plan. The basis for the proposal to order the preparation and filing of an amended wind up report was that the report ought to provide for the distribution of the surplus assets to the members and former members affected by the partial wind up. While the Plan and the trust agreement relating to the pension fund for the Plan had been amended to provide for the reversion of surplus to the employer, the Deputy Superintendent concluded that these amendments were inconsistent with the terms of the original Plan and trust agreement, in

which case the members and former members were entitled to the surplus in accordance with the terms of the original Plan and trust agreement.

On January 30, 2006, an application for party status was filed by Jaqueline Briand, a former member of the Plan. At a pre-hearing conference on April 5, 2006, full party status was granted to Jaqueline Briand and the matter was adjourned at the request of the parties in order to permit settlement discussions to take place. The pre-hearing conference was scheduled to resume on May 17, 2006 and was further rescheduled to June 21, 2006 and then again to September 22, 2006 at the parties' request to permit the continuation of settlement discussions.

Jacqueline Briand; Allied Signal Canada Inc. Retirement Plan for Salaried Employees (now Honeywell ASCa Retirement Plan for Salaried Employees), Registration Number 0222695; FST File Number P0266-2006;

On January 30, 2006, Jacqueline Briand (the "Applicant") requested a hearing in respect of the position of the Superintendent of Financial Services (the "Superintendent") evidenced by a letter dated January 3, 2006, from a pension officer in the Pension Plans Branch of the Financial Services Commission of Ontario to counsel for the Applicant, to the effect that there were no grounds for the Superintendent appointing an administrator for the Honeywell ASCa Retirement Plan for Salaried Employees (the "Plan") pursuant to s. 71 of the Pension Benefits Act (Ontario) because there was no indication that the Plan does not have an administrator or that the administrator was failing to act.

On February 6, 2006, an application for party status was filed by Honeywell ASCa Inc. At a pre-hearing conference on April 5, 2006, full party status was granted to Honeywell ASCA Inc. and the matter was adjourned at the request of the parties in order to permit settlement discussions to take place. The pre-hearing conference was scheduled to resume on May 17, 2006, and was further rescheduled to June 21, 2006 and then again to September 22, 2006 at the parties' request to permit the continuation of settlement discussions in the interim.

Loba Limited; Pension Plan for Employees of Loba Limited, Registration Number 1026335; FST File Number P0267-2006;

On February 2, 2006, Loba Limited (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated January 5, 2006, proposing to make an order, under section 69 of the Pension Benefits Act (the "Act"), that the Pension Plan for Employees of Loba Limited (the "Plan") be wound up in whole effective May 1, 2005.

The Notice of Proposal indicates that the reason for the proposed order is that there was a cessation or suspension of employer contributions to the pension fund for the Plan within the meaning of s. 69(1)(a) of the Act by virtue of the following circumstances:

- the Canada Revenue Agency had revoked the registration of the Plan under the Income Tax Act (Canada), effective April 1, 2000, for failure to comply with the provisions of that Act and an appeal from that decision had been unsuccessful;

- the Applicant had filed an amendment to the Plan to suspend all member contributions to the Plan, effective May 1, 2005, which amendment was registered on November 1, 2005.

The Notice of Proposal also states that there would be no benefit to members of the Plan in not winding up the Plan and no reason for the Superintendent to refrain from exercising his discretion to order a wind up of the Plan.

A pre-hearing conference was scheduled for April 20, 2006. On February 24, 2006, the Applicant requested an adjournment of the pre-hearing conference in order to permit the adjudication of the Applicant's Application to Register a Pension Plan dated December 21, 2005, (the "CRA Application"), filed with the Canada Revenue Agency (the "CRA"). The Superintendent responded to the request by agreeing to an adjournment only until the earliest of:

1. The date the CRA provides its decision in respect of the CRA Application; and
2. September 14, 2006.

On March 28, 2006, the Tribunal held a discussion with the parties to seek clarification with respect to the Applicant's request for an adjournment of the pre-hearing conference. The request was subsequently granted and the pre-hearing conference is now scheduled for June 14, 2006.

Canron Construction Inc.; Pension Plan for the Hourly Employees of Canron Construction Inc., Registration Number 1044288; FST File Number P0268-2006;

On February 28, 2006, Canron Construction

Inc. (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated January 27, 2006, ordering the Applicant, pursuant to s.88 (2)(c) of the Pension Benefits Act (the "Act") to file a revised version of a wind up report, dated June 3, 2004, with respect to the wind up of the Plan, within 30 days of the Notice of Proposal. The revised wind up report was to include provision for payment of bridge benefits, under clause 8.02(d) of the Plan, for all plan members affected by the wind up who had a combination of age plus years of service totalling 85 or, who would have grown into age plus years of service totalling 85 at retirement if they had age plus years of service totaling 55.

The Notice of Proposal indicates that the reason for the proposal is that the report should have shown the bridge benefits as a liability of the Plan, even though the members who would have been entitled to those benefits were terminated, since s. 74(3) of the Act provides that such benefits shall be included in calculating the pension benefits, on the wind up of a pension plan, of employees with at least 10 years of continuous employment or at least 10 years of membership in the plan.

A pre-hearing conference was scheduled for May 19, 2006. On March 29, 2006, the Applicant requested a postponement of the pre-hearing conference in order to allow for settlement discussions between the parties. The Tribunal postponed the pre-hearing conference and a settlement conference was scheduled for May 18, 2006. The matter did not settle and the pre-hearing conference was rescheduled to July 10, 2006.

Blair Smears; CCSI Technology Solutions Corp. Retirement Program, Registration Number 0546101; FST File Number P0269-2006;

On February 23, 2006, Blair Smears (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated February 16, 2006, refusing to make an order that the administrator of the CCSI Technology Solutions Corp. Retirement Program the ("Plan") pay an amount into the Applicant's retirement account under the Plan equal to the commuted value of the deferred pension to which the Applicant claimed to be entitled. The Applicant argued, in representations to the Superintendent, that he was entitled to a deferred pension because his term of 22 months employment with the Applicant when added to three weeks of mandatory notice of termination under the Employment Standards Act (the "ESA") exceeded 24 months of continuous employment, the period for qualification for a deferred pension under s. 37 of the Pension Benefits Act (the "PBA"). The Superintendent contends there was no contravention of the PBA or the Plan that would result in the Superintendent having authority to grant the requested order.

On March 14, 2006, an application for party status was filed by CCSI Technology Solutions Corp. ("CCSI"). At a pre-hearing conference on May 4, 2006, full party status was granted to CCSI. The parties agreed that the issues for determination by the Tribunal at the hearing should be framed as follows:

1. In determining whether to grant the relief sought by the Applicant, does the Tribunal have

the authority and jurisdiction to interpret and apply the ESA?

2. Assuming question (a) is answered in the affirmative, is the Tribunal the appropriate forum for determining the matters raised in the hearing?
3. Assuming questions (a) and (b) are answered in the affirmative, does the Applicant have entitlement to a deferred pension under the terms of the Plan or the PBA?
4. Given the answers to questions (a) through (c), what (if any) remedy should be granted?

A hearing is scheduled for August 8, 2006.

National Steel Car Limited; Pension Plan for Employees of National Steel Car Limited, Registration Number 0215038; FST File Number P0271-2006;

On March 7, 2006, National Steel Car Limited (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated February 6, 2006, ordering the Applicant to credit Mr. Taso Ristic, a former member of the Pension Plan for Employees of National Steel Car Limited, Registration Number 0215038 (the "Plan"), with service under the Plan for period or periods of time during which Mr. Ristic was laid off from employment and receiving partial permanent disability benefits from the Workplace Safety and Insurance Board ("WSIB"). The basis for the proposed order is that the Plan provides that the time an employee member received worker's compensation benefits shall be

treated as credited service under the Plan at the rate of 40 hours per week.

On April 13, 2006, an application for party status was filed by Mr. Taso Ristic. A pre-hearing conference is scheduled for June 5, 2006.

Ivaco; Pension Plan for Salaried Employees of Ivaco Inc. and Participating Subsidiary Companies, Registration Number 0410357; FST File Number P0273-2006;

On April 26, 2006, Ivaco Inc. through its monitor Ernst & Young Inc. (the "Applicant") requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated March 27, 2006, proposing to make a declaration under s.83 of the Pension Benefits Act (the "Act") that the Pension Benefits Guarantee Fund applies to the Plan for the following reasons:

1. The Plan is registered under Quebec's Supplemental Pension Plans Act, a designated province stipulated under s.1 of the Act,
2. The Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund by the Act or the Regulations made thereunder,
3. The plan was wound up effective December 1, 2004, and
4. There are reasonable and probable grounds that the funding requirements of the Act and Regulations cannot be satisfied.

This matter stands adjourned due to a stay

of proceedings by order of the Ontario Superior Court of Justice issued pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36.

United Steelworkers; Pension Plan for the Aluminum Brick and Glass Workers International Union Retirement & Pension Plan Registration Number 0009838 to the United Steel Workers of America (International Union) Staff Pension Plan Registration Number 0008964; FST File Number P0274-2006;

On May 5, 2006, United Steelworkers (the "Applicant"), requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated April 6, 2006, ordering that:

1. the administrator of the Aluminum Brick and Glass Workers International Union Retirement & Pension Plan Registration No.0009838 (the "ABG Plan") file a report on the actuarial valuation for the assets transferred from the ABG Plan to the United Steel Workers of America (International Union) Staff Pension Plan Registration No. 0008964 ("USWA Staff Plan") within 90 days from the date of the proposal; and
2. the assets transferred from the ABG Plan to the USWA Staff Plan be returned to the ABG Plan together with the accrued interest within 90 days from the date of the proposal pursuant to section 81(6) of the Pension Benefits Act (the "Act"); and
3. the financial statements due by

September 30, of 2001, 2002, 2003, 2004 and 2005; the annual information returns due by December 31, of 2001, 2002, 2003, 2004 and 2005; the Pension Benefits Guarantee Fund assessment certificates due by December 31, of 2001, 2002, 2003, 2004, and 2005; and the actuarial reports due by January 1, of 2001 and 2004, be filed within 90 days from the date of the proposal.

The unions that were sponsors of the ABG Plan and the USWA Staff Plan merged effective January 19, 1997 and the active members of the ABG Plan became members of the USWA Staff Plan for the accrual of future service credits only. The two Plans were subsequently merged and that merger was approved in the United States, where the assets of the trust funds for the two Plans were located, by the relevant U.S. regulators. The Applicant claims that the Superintendent has no jurisdiction over the trust funds for the plans or their transfer, while the Superintendent claims that he has jurisdiction by virtue of the fact that certain Plan members are employed in Ontario and that approval for the transfer of assets from the one Plan to the other should have been obtained under s. 80(4) or 81(4) of the Pension Benefits Act.

A pre-hearing conference is scheduled for September 5, 2006.

**Gay Lea Foods Co-operative Limited;
Participating Co-operatives of Ontario
Trusteed Revised Pension Plan, Registration
Number 0345736; FST File Number P0275-
2006;**

On May 9, 2006, Gay Lea Foods Co-operative Limited, requested a hearing regarding the Notice of Proposal of the Deputy Superintendent, Pensions, dated April 12, 2006, proposing to:

- refuse, pursuant to section 18(1)(d) of the Pension Benefits Act (the "Act"), to register an amendment dated February 27, 2004 and effective March 31, 2003 (the "Amendment") to the Participating Co-operatives of Ontario Trusteed Revised Pension Plan, Registration Number 0345736 (the "Plan") that terminates the Plan effective March 31, 2003 and reduces benefits accumulated prior to that date.
- order that the Board of Trustees of the Plan (the "Trustees") refrain from administering the Plan in accordance with the Amendment to the extent that the Amendment reduces benefits accumulated prior to March 31, 2003;
- order, pursuant to ss.75 and 87 of the Act, that the employers participating in the Plan (the "Employers") pay, in the prescribed manner and at the prescribed times, into the fund for the Plan (the "Fund"), such amounts so that the total of the amounts contributed by all Employers on a joint and several basis equals the sum of:

- (1) the total of all payments that under the Act, the Regulations and under the Act and the Plan are due or that have accrued and that have not been paid into the Fund; and

- (2) the amount by which:
 - (i) the value of the pension benefits accrued and vested under the Plan, and
 - (ii) the value of benefits accrued resulting from the application of ss.39(3) and 74 of the Act, exceed the value of the assets of the Fund;
 - order, pursuant to s.87 of the Act, that consequent upon a finding that the Employers are required to contribute to the Plan under s.75 of the Act, the Trustees refrain from reducing pension payments to retired members (or their surviving spouses, if applicable) due on and after April 1, 2003 and refrain from reducing pension payments to new retired members due on and after April 1, 2003 and that such reductions implemented thus far be reversed by refunding the difference between the full benefit entitlement under the Plan and the reduced amounts actually paid with interest;
 - refuse, pursuant to s.70(5) of the Act, to approve a wind up report filed by the Trustees and dated February 28, 2004 with respect to a full wind up of the Plan effective March 31, 2003; and
 - order, pursuant to s.88 of the Act, that the Trustees prepare and file a new wind up report that among other things, addresses the defects set out in the Notice of Proposal and, specifically, contains:
 - i. a statement of benefits to be provided under the Plan to members, former members and other persons without regard to the reductions contemplated in the Amendment and notice of wind up of the Plan dated April 1, 2003 (the "Notice");
 - ii. a distribution scheme for the assets of the Plan without regard to the benefit reductions set out in the Amendment and Notice; and
 - iii. provision for the fact that the Employers are required to make additional contributions under the Act.
- The Superintendent has taken the position that:
- the Plan text prohibits amendments to the Plan that reduce benefits accumulated prior to the date of the amendment;
 - no payments are being made, or are anticipated to be made, into the Fund by any of the Employers to reduce or eliminate the unfunded liability of the Plan as at March 31, 2003, although s.75 of the Act requires employers participating in a pension plan that is to be wound up to pay into the plan amounts that are due or have accrued but are unpaid and amounts by which the liabilities under the plan exceed the assets in the plan.
 - the Notice provides for reductions in payments for retired members (in addition to the reductions set out in the Amendment) which are not permitted

by the Act or the Regulations thereunder.

On May 11, 2006, requests for hearing were also filed by:

- the Board of Trustees of Participating Co-operatives of Ontario Trusteed Pension Plan,
- Cochrane Farmers Co-operative,
- Green Lea AG Center Inc.
- Huron Bay Co-operative Inc.
- Inland Co-operative Inc.
- Lucknow District Co-operative Inc.
- Madoc Co-operative Association
- Manitoulin Livestock Co-operative
- North Wellington Co-operative Services Inc.
- Ontario Federation of Agriculture
- Orford Co-operative Ltd.
- Simcoe District Co-operative Services
- Sunderland Co-operative Inc.
- Warkworth Co-operative Services, and
- Waterloo-Oxford Co-operative Inc.

On May 31, 2006, applications for party status were filed by Thomas Perks a member of the Plan, and Jon Lazarus a former member of the Plan.

A pre-hearing conference is scheduled for October 30, 2006.

CAW-Canada and its Locals 112 and 673; Spar Aerospace Limited Pension Plan for Employees Represented by CAW Local 112, Registration Number 0549501, and Spar Aerospace Limited Pension Plan for Employees Represented by CAW Local 673, Registration Number 0549519; FST File Number P0276-2006;

On May 19, 2006, CAW-Canada and its Locals 112 and 673, (the "Applicant") filed a Notice of Appeal in respect of the position of the Superintendent of Financial Services (the "Superintendent"), evidenced by a letter dated April 26, 2006 from a pension officer in the Pension Plans Branch of the Financial Services Commission of Ontario to CAW-Canada, that the members of the Pension Plan for Employees Represented by CAW Local 112, Registration Number 0549501, and of the Pension Plan for Employees Represented by CAW Local 673, Registration Number 0549519 (the "Plans") are subject to the requirements of the Pension Benefits Standards Act (Canada) and, therefore, that s.69 of the Pension Benefits Act would not apply to the members affected by the downsizing of employment at Spar Aerospace Limited affecting members of the Plans.

The Applicant has asked the Superintendent to order the partial wind up of the Plans, which are collectively bargained by the Applicant, on the basis of that downsizing and now requests, through the Notice of Appeal, that the Tribunal order the Superintendent to direct such partial wind up.

A pre-hearing conference is scheduled for October 11, 2006.

The following cases are adjourned sine die

- **The Retirement Plan for Salaried Employees (Consumer Foods) of General Mills Canada, Inc., Registration Number 342042; FST File Number P0058-1999;**
A pre-hearing conference scheduled for December 8, 2004 was adjourned sine die at the request of the parties

on October 27, 2004, due to settlement discussions.

- **Crown Cork & Seal Canada Inc., Registration Numbers 474205, 595371 & 338491; FST File Number P0165-2001;**

At a settlement conference on October 30, 2001, the parties agreed to adjourn the matter sine die pending discussions between the parties.

- **Slater Stainless Corp. Pension Plan for Slater Stainless Corp. Members of the National Automobile Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), Registration Number 561456; FST File Number P0220-2003;**

The pre-hearing conference scheduled for June 16, 2003 did not proceed since an Order was issued on June 2, 2003 by the Ontario Superior Court of Justice in relation to Slater Stainless Corp., pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings.

- **Slater Stainless Corp. Pension Plan for Slater Stainless Corp. Members of the United Steel Workers of America (Local 7777), Registration Number 561464; FST File Number P0221-2003;**

The pre-hearing conference scheduled for June 16, 2003 did not proceed since an Order was issued on June 2, 2003 by the Ontario Superior Court of Justice in relation to Slater Stainless Corp., pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36. The Order includes a stay of all proceedings.

- **Jane Parker Bakery Limited Retirement Plan for Full-time Bargaining Employees, Registration Number 0400325; FST File Number P0224-2003;**

On September 8, 2003, the parties advised they agreed to proceed with settlement discussions, and requested that the pre-hearing conference scheduled for September 10, 2003, be adjourned to a date to be determined if one becomes necessary.

- **Peter Stopyn, Douglas Llewellyn, United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 67, Registration Number 381525; FST File Number P0239-2004;**

The pre-hearing conference scheduled for November 23, 2004, was adjourned sine die at the request of the Applicants.

- **Stel Salaried Pensioners Organization, Stelco Inc. and Participating Subsidiaries Retirement Plan for Salaried Employees, Registration Number 0338509; the Stelco Inc. Retirement Plan for Lake Erie Steel Company Salaried Employees, Registration Number 0698753; "the Salaried Pension Plans", FST File Number P0250-2005;**

On January 31, 2005, members of the Stel Salaried Pensioners Organization filed a Notice of Appeal in respect of a letter from the Pension Plans Branch of the Financial Services Commission of Ontario, dated January 7, 2005. This matter stands adjourned sine die due

to a stay of proceedings against Stelco Inc. pursuant to proceedings under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36.

FINANCIAL HARDSHIP

Application to the Superintendent of Financial Services for Consent to Withdraw Money from a Locked-in Retirement Account, Life Income Fund or Locked-in Retirement Income Fund based on Financial Hardship.

FST File Number	Superintendent of Financial Services' Notice of Proposal	Comments

No Decisions to Report

Decisions to be Published

Schering-Plough Healthcare Products Canada Inc.
Donna Capaldi; Retirement Income Plan for Union Employees of Dominion Stores Limited



FST File No. P0253-2005
Decision No. P0253-2005-2

FINANCIAL SERVICES TRIBUNAL

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P. 8 (the "*Act*"), as amended by
the Financial Services Commission of Ontario
Act, 1997, S. O. 1997, c. 28;

IN THE MATTER OF a request made by
Donna Capaldi, beneficiary of Tony (Antonio)
Capaldi to the Superintendent of Financial
Services for an order compelling the payment
of certain benefits from the **Retirement
Income Plan for Union Employees
of Dominion Stores Limited (1979),**
Registration Number 0005188 (the "*Plan*");

AND IN THE MATTER OF a hearing in
accordance with subsection 89(8) of the *Act*;

BETWEEN

**DONNA CAPALDI, BENEFICIARY OF
TONY (ANTONIO) CAPALDI**

Applicant
-and-

**SUPERINTENDENT OF FINANCIAL
SERVICES and DOMGROUP LTD.**

Respondents

BEFORE:

Ms. Florence A. Holden
Member of the Tribunal and Chair of the
Panel

Ms. Elizabeth Shilton
Member of the Tribunal and of the Panel

Mr. David Short
Member of the Tribunal and of the Panel

APPEARANCES:

For the Applicant:
Ms. Patti Huck and Mrs. Donna Capaldi

For the Superintendent:
Ms. Deborah McPhail and Ms. Zeenath Zeath

For the Respondent Domgroup Ltd.:
Ms. Marianne Desaulniers

HEARING DATE:

February 6, 2006

REASONS FOR DECISION

PRELIMINARY MATTERS:

Ms. Desaulniers was asked that she confirm
that she was in attendance at this hearing as a
proper representative of Domgroup Ltd. and
she did so confirm.

The Chair of the Panel reiterated her reasons
for an interim order issued on January 9, 2006,
that denied a request by the Respondent,
Domgroup Ltd., to add Industrial Alliance
Insurance and Financial Services Inc.
("Industrial Alliance") as a party to these
proceedings.

The reasons were issued on January 9, 2006 by
the Chair of the Panel as follows:

- The parties agreed at the pre-hearing
conference of October 3, 2005 that they
were the correct parties and the Chair

believed this to be so.

- Industrial Alliance had not requested party status.
- The Respondent Domgroup Ltd.'s grounds for the motion were that Industrial Alliance was an agent for Domgroup Ltd., the plan administrator, acting as a trustee for the Plan and made a payment consistent with the deceased Plan member's instructions (Mr. Tony Capaldi). While the relationship may be one of agency, there was no evidence in the submissions made to suggest that Industrial Alliance acted independently. Lack of payment would not relieve Domgroup Ltd. of its obligations.
- While useful for the Panel to hear evidence of any party as to such payment, it is not necessary to add Industrial Alliance as a party to secure such evidence. Any party may call Industrial Alliance as a witness in that regard. The Tribunal is prepared, if requested, to consider an application by any party for Summons to Witness in Form 3 (a) of any person to give testimony or to produce documents at the hearing, by submission of such request to the Registrar under Rule 36.01 of the Rules of Practice and Procedure for Proceedings before the Tribunal (the "Rules").
- Applications for party status under Rule 38 of the Rules are normally brought by the person who wishes to be added as a party. This is not the case in this matter. The Rules do not provide any procedures for a party to apply to have another person added as a party.
- While it may be possible on a broad reading of Section 2.01 of the Rules that in some limited circumstances the Tribunal may have the power to make such an

order, the Chair did not feel it necessary to determine that question of jurisdiction further. Following the reasons in the decision of the Tribunal in the matter of CBS Canada Co. v. Superintendent of Financial Services and National, Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW - Canada) and its local 504, FST Decision No. P0164-2001-1, wherein a similar issue was raised, it is not necessary to add Industrial Alliance as a party, since it is reasonable to assume that information it has in its hands may be easily available to the parties, and the Respondent, Domgroup Ltd., has not suggested otherwise.

FACTS

On the basis of the evidence before us, the Panel finds the following facts:

1. Mr. Tony (Antonio) Capaldi was a former member of the Retirement Income Plan for Union Employees of Dominion Stores Limited (1979) (the "Plan"). Mrs. Donna Capaldi, the Applicant, is the surviving spouse and beneficiary of Mr. Capaldi.
2. Domgroup Ltd. (formerly Dominion Stores Limited) was the administrator of the Plan for purposes of the *Act*. Domgroup Ltd. was accorded party status on consent of all parties at a pre-hearing conference on October 3, 2005.
3. In October of 1989, the Plan administrator wrote to Mr. Capaldi requesting him to make an election with respect to his pension entitlement. The Plan was wholly wound-up. The letter confirmed that the



locked-in portion of Mr. Capaldi's pension entitlement was valued at \$4,236.40 and the non-locked-in portion was valued at \$1,412.13.

4. Mr. Capaldi partially completed an election form, locking-in agreement and TD2 form, each signed November 8, 1989. The parties are agreed that Mr. Capaldi's intention was to transfer both the locked-in and non-locked-in portions of his pension entitlement, if possible, to his person Registered Retirement Savings Plan with National Trust (now Scotiabank).
5. The Applicant contends that the locked-in portion of Mr. Capaldi's pension entitlement was not transferred by the Plan administrator into his RRSP account at National Trust.
6. An erroneous letter was sent by Domgroup Ltd. to Mr. Capaldi, dated December 17, 2002, which suggests that his pension would commence in June 2003 at age 65. We accept Ms. Desaulniers' testimony that the letter was sent in error and that no pension was to commence at age 65, but also note no evidence of any correction sent to Mr. Capaldi was submitted. The Applicant's claim did indicate that payment of a periodic pension would be an acceptable form of relief.
7. The Applicant has produced the following additional documentation to substantiate her claim that the locked-in portion of the pension entitlement was not transferred to Mr. Capaldi's RRSP:
 - a. a letter from Scotiabank dated August 20, 2003, stating that it appeared that National Trust did not receive a pension transfer in the amount of \$4,236.40 in 1989 for Mr. Capaldi;
 - b. a letter from Scotiabank dated November 29, 2004, confirming that Mr. Capaldi transferred his RRSP to Assante Financial in November of 1999 and the amount was \$1,412.31.
8. Domgroup's records, as provided by Industrial Alliance, indicate that the non-locked-in portion and the locked-in portion of Mr. Capaldi's pension entitlement, in the amount of \$5,979.38, were transferred via a cheque numbered 4691080 dated November 30, 1989. Domgroup's records, as provided by Industrial Alliance, also show this cheque was cashed on December 13, 1989.
9. Due to the passage of time, no one has been able to produce a cancelled cheque.
10. Domgroup has produced the following documentation to substantiate its claim that the locked-in portion of Mr. Capaldi's pension entitlement was transferred to his RRSP:
 - a. a faxed transmission from Industrial Alliance confirming that cheque number 4691080 dated November 30, 1989 in the amount of \$5,979.38 was cashed on December 13, 1989; the fax also confirms that the practice is to issue only one cheque when both locked-in and non-locked-in amounts are transferred to the same institution;
 - b. a list of payments from Industrial Alliance showing a cash entitlement

of \$5,648.43 as of May 3, 1989, and an amount paid of \$5,979.38 on the same line as the number "91" and the name "Capaldi, T.";

pension plan in 1989. The Capaldi's then became concerned that not all the money to which he was entitled had in fact been transferred, and commenced this case.

- c. a handwritten list from Industrial Alliance showing transaction number 91, Tony Capaldi, November 30, 1989, number 4691080, \$5,979.38;
 - d. a list of cheques issued by Industrial Alliance showing payment of \$5,979.38 on December 13, 1989, transaction number 4691080;
 - e. a letter dated February 9, 2005 from Industrial Alliance.
11. In addition to these agreed facts, Mrs. Capaldi gave oral evidence. She testified that she personally reviewed all the documentation that came from Scotiabank in connection with her husband's RRSPs. She also testified that Scotiabank refused to allow the Capaldi's to remove any of the money transferred, taking the position that it was all locked-in. She indicated that the only statements she ever saw were related to a small RRSP (presumably the one ultimately transferred to Assante in 1999) and that the Capaldi's did not raise any questions about what had happened to the larger amount because they assumed that the rest of the money was still in the pension plan. They began to make inquiries only after Mr. Capaldi received the December 17, 2002 letter from Domgroup inviting him to apply for his pension. Mrs. Capaldi indicated that they were subsequently advised that he would not be getting a pension because all his money had been transferred out of the
12. A Notice of Proposal was issued by the Superintendent of Financial Services (the "Superintendent") on May 10, 2005, refusing to order the Plan administrator to pay any additional amounts.
13. Domgroup did, however, offer in evidence some additional documentation received the week before the hearing from Industrial Alliance, which was described by Domgroup as simply confirmation of evidence already agreed to, not new evidence. The Superintendent supported the admission of the new documents. While Mrs. Capaldi had not seen these documents prior to the hearing and did not consent to their admission, she declined the panel's invitation to seek an adjournment to review the documents and call additional evidence. We agreed to receive the additional documents, but in the result have not relied on them.

THE ISSUES IN THIS PROCEEDING:

At the pre-hearing conference of October 3, 2005, the Parties agreed to frame the issues as follows:

- (a) Has the Applicant established that part of her pension entitlement as a surviving spouse was not transferred from the Plan to the former member's (Mr. Capaldi's) RRSP pursuant to subsection 42(5) of the *Act*?
- (b) If the answer to issue (a) is yes, what

amount is owing to the Applicant?

- (c) If the answer to issue (a) is yes, what is the appropriate remedy?

We will now deal with each issue separately and in the order described above.

(a) Has the Applicant established that part of her pension entitlement as a surviving spouse was not transferred from the Plan to the former member's (Mr. Capaldi's) RRSP pursuant to subsection 42 (5) of the Act?

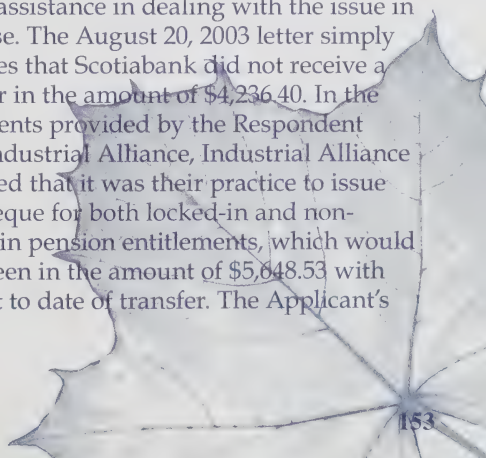
For clarity, the panel will restate the issue: the Applicant is required to establish whether Mr. Capaldi's full pension entitlement was paid from the Plan to his RRSP as per his election. We are satisfied that the Applicant, Mrs. Donna Capaldi, is the proper surviving spouse and beneficiary of any remaining pension entitlement.

We accept the Respondent, Domgroup Ltd.'s evidence, provided by its funding agent, Industrial Alliance, included in the Agreed Book of Documents, that there was a transfer of funds by Industrial Alliance, as the funding agent of the Plan administrator, to Mr. Capaldi's RRSP in November 1989. The Applicant does not dispute that there was a transfer of funds. The only item in dispute is the amount of transfer. The best evidence before us as to amount are those documents provided by the Plan's funding agent, Industrial Alliance, whose cheque records indicate a payment was made by cheque numbered 4691080, dated November 30, 1989 in the amount of \$5,979.38 and cashed on December 13, 1989.

There is no evidence before the panel as to how that amount was subsequently allocated to Mr. Capaldi's RRSP by National Trust. It is possible that Mr. Capaldi had more than one RRSP or that an error was made in the allocation of the transferred monies. Neither Industrial Alliance nor Scotiabank were called as witnesses to provide insight as to the payment and allocation of funds, despite offers by the panel to permit an adjournment for such purpose.

Mrs. Capaldi's own evidence indicated that the TD2 transfer form submitted at the hearing by Domgroup, which had not formed part of the Agreed Book of Documents, was a document that she had not seen previously and she did not believe that the "Details of Transfer" information indicating the full transfer amount of \$5648.53 was completed by Mr. Capaldi. She did not, however, dispute the information appearing on the form. Mrs. Capaldi refused the panel's offer of an adjournment to satisfy herself as to the authenticity of the documents. As noted above, the panel in rendering this decision has decided to give no weight to the documents.

We do not find the letters from Scotiabank, dated August 20, 2003 and November 29, 2004 of any assistance in dealing with the issue in this case. The August 20, 2003 letter simply indicates that Scotiabank did not receive a transfer in the amount of \$4,236.40. In the documents provided by the Respondent from Industrial Alliance, Industrial Alliance indicated that it was their practice to issue one cheque for both locked-in and non-locked in pension entitlements, which would have been in the amount of \$5,648.53 with interest to date of transfer. The Applicant's



own testimony was that no enquiries were made by her of Scotiabank after 2002 and she provided no other documentation, and in particular no related tax records.

The November 29, 2004 Scotiabank letter addressed to the Mr. Dillon De Coteau of the Financial Services Commission of Ontario, Pension Plan Branch, refers to a subsequent transfer from Mr. Capaldi's RRSP to Assante Financial in November 1999, but that letter fails to reference the RRSP account number and the dollar amount referred to in the transfer does not match the other Scotiabank records submitted with respect to the transfer. As well we find it curious that the dollar amount transferred ten years later would have no accrued earnings to increase the amount indicated. In any event that subsequent transfer is immaterial to the issue at hand and we give that document no weight.

No party called witnesses from either Industrial Alliance or Scotiabank. No other documentary evidence as to the amount transferred other than documents in the Agreed Book of Documents were tendered to the panel. The Applicant did not dispute that the transfer forms signed by Mr. Capaldi were intended to transfer his full entitlement under Section 42 of the Act to his personal RRSP, and she did understand that all or a portion of those monies would be locked-in. The panel has found that the transfer cheque in the amount of \$5,979.38 was paid and cashed. The Applicant offered no evidence to contradict or challenge that evidence. The panel accepts Ms. Desaulniers' testimony that Domgroup Ltd. did not have any other files in its possession. Based on the evidence before us, the 17-year lapse since events began, and

with no additional evidence available, we find that the answer to question (a) is No.

As a result of this finding the panel does not find it necessary to answer questions (b) or (c). We recognize that our finding leaves no remedy for the Applicant under the *Act*. She may have other remedies in civil court, and in view of our finding that the full sum of \$5,979.38 was sent by Industrial Alliance to Scotiabank for deposit in Mr. Capaldi's RRSP and received by Scotiabank, she may wish to take this up with the bank ombudsman.

The panel hereby orders that the Applicant's request be dismissed and the Superintendent's Notice of Proposal be affirmed.

COSTS

As no party made a request as to costs, the panel makes no order as to costs.

Dated at Toronto this 13th day of March, 2006.

Florence A. Holden
Chair of the Panel and Member of the
Tribunal

Elizabeth Shilton
Member of the Panel and Member of the
Tribunal

David Short
Member of the Panel and Member of the
Tribunal



FST File No. P0085-1999
Decision No. P0085-1999-1

FINANCIAL SERVICES TRIBUNAL
IN THE MATTER OF *the Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended by the *Financial*
Services Commission of Ontario Act, 1997, S.O.
1997, c.28 ("the Act")

AND IN THE MATTER OF a proposal by
the Superintendent of Financial Services
to make an Order under Subsections 70(5),
87(2)(c) and 88(2)(c) of the Act respecting the
Schering-Plough Healthcare Products Canada
Inc. Salaried Employees' Pension Plan,
Registration No. 0297903;

AND IN THE MATTER OF a hearing in
Accordance with subsection 89(8) of the Act

BETWEEN:

SCHERING CANADA INC.

Applicant
-and-

SUPERINTENDENT OF FINANCIAL
SERVICES and ESTATE OF
KEN REYNOLDS, MICHEL GARIEPY,
EDWARD TAYLOR, and JIM WILSON
Respondents
BEFORE:

Lily Harmer
Member of the Tribunal and Chair of the
Panel

Shiraz Bharmal
Member of the Tribunal and of the Panel

David A. Short
Member of the Tribunal and of the Panel

APPEARANCES:

For the Applicant:
Paul Dimitriadis and Kathy Bush

For the Superintendent of Financial Services:
Deborah McPhail

For the Estate of Ken Reynolds, Michel
Gariepy, Edward Taylor and Jim Wilson:
Christine Tabbert

Hearing Date:

January 9, 2006

REASONS FOR DECISION

NATURE OF THE APPLICATION

Schering Canada Inc. ("Schering") seeks an Order preventing the Superintendent from proceeding with a Notice of Proposal to make an order requiring Schering to prepare and submit, within 60 days, a report amending that portion of the partial wind-up report dated February 19, 1997 (the "Partial Wind Up Report") on the partial wind-up of the Schering-Plough Healthcare Products Canada Inc. Salaried Employees' Pension Plan (the "Plan") dealing with the surplus attributable to members affected by the partial wind-up, to comply with the requirements of the *Pension Benefits Act* (the "Act").

The parties addressed the following issues:

1. Is Schering entitled to surplus under the Plan?
2. What is the amount of surplus related to the partial wind-up?

3. Does the Superintendent have the authority under the Act to refuse to approve the Partial Wind-Up Report on the basis of a lack of distribution of surplus to members on a partial wind-up, if the employer is entitled to surplus?
4. If Schering is entitled to surplus under the Plan, is section 8 of Regulation 909 under the Act *ultra vires* in the sense that it is beyond the regulation-making authority in the Act?
5. If section 8 of Regulation 909 is *ultra vires*, should the Superintendent be directed to approve Schering's Partial Wind-Up Report, as revised by Schering?

FACTS

The hearing proceeded on the basis of an Agreed Statement of Facts. The parties chose not to adduce any additional evidence at the hearing.

The Plan is a pension plan sponsored and administered by Schering that includes defined benefits. The Estate of Ken Reynolds, Michel Gariepy, Edward Taylor and Jim Wilson are members of the Plan who were affected by the partial wind-up of the Plan as at August 31, 1996 ("Plan Members"). The Superintendent of Financial Services (the "Superintendent") administers and enforces the *Financial Services Commission of Ontario Act*, and all other legislation that confers powers on or assigns duties to the Superintendent, including the *Pension Benefits Act*. The Superintendent also exercises the powers and duties conferred upon the Superintendent by

the relevant legislation.

Plan History

The Plan was established by Scholl-Plough Canada Inc. effective July 1, 1988. It was known at that time as the Scholl-Plough Canada Inc. Salaried Employees' Pension Plan. The Plan was originally funded pursuant to three funding agreements. The first was Group Annuity Policy Gr. P.P. 11694 issued by Standard Life Assurance Company of Canada ("Policy 11694") in respect of pre-1987 benefits for former members of the Plough Canada Employees' Pension Plan (the "Plough Plan"). The second was a Tri-Plan Policy Gr. P.W. 73973 issued by Standard Life Assurance Company to fund the money purchase pension under the Plan. The third was a trust agreement with Montreal Trust Company of Canada, effective July 1, 1988, to fund all benefits accrued under the Plan after July 1, 1988. This trust agreement was replaced by a trust agreement with Royal Trust Corporation of Canada on August 18, 1999.

The Plan was amended several times to reflect company name changes and reorganizations.

Prior Plan History

With effect from January 1, 1987, Scholl (Canada) Inc. and Plough Canada Inc. merged and continued as Scholl-Plough Canada Inc. Prior to that merger each of the two companies had sponsored its own pension plan ("Scholl Plan" and "Plough Plan"). A salaried employee of the merged company Scholl-Plough Canada Inc. who had been a member of either of those prior plans and who was employed by Scholl-Plough Canada

Inc. on July 1, 1988 automatically became a member of the Plan.

The Plough Plan had been adopted as at January 1, 1982. It in turn was an amendment and restatement of the Retirement Income Plan for Employees of Schering Canada Inc. (the "Prior Plough Plan"), the provisions of which were set forth in Group Annuity Insurance Contract No. G.A. 471 issued by The National Life Assurance Company of Canada. The Prior Plough Plan dated back to 1955. No copy of Group Annuity Insurance Contract No. G.A. 471 is contained in the Plough Plan files of the Financial Services Commission of Ontario, or in Schering's files. In fact, no documents pertaining to the Prior Plough Plan were provided in evidence in this matter.

The Plough Plan adopted in January 1, 1982 was funded pursuant to a trust agreement between Plough Canada Inc. and the Guaranty Trust Company. That trust agreement was dated January 1, 1982. Assets under that 1982 Guaranty Trust agreement were transferred effective July 1, 1988 to the Montreal Trust Company of Canada, and held pursuant to the 1988 Montreal Trust agreement. The amount transferred on July 6, 1988 was \$1,112,321.55. Of this, the amount attributable to salaried members was \$773,210.00.

Prior to November 15, 1977, benefits under the Scholl Plan were fully insured under Group Policy Gr. P.W. 10660 issued by The Standard Life Assurance Company. The commencement date of Policy 10660 was July 1, 1960. There was no plan text for the Scholl Plan. Effective November 15, 1977, liabilities relating to benefits for salaried members

of the Scholl Plan, except those relating to pension payments which commenced prior to November 15, 1977, were assumed by Scholl (Canada) Inc. under the terms of Policy 11694.

Benefits under the Scholl Plan continued to be fully insured under Policy 11694 until December 31, 1986. Policy 11694 became paid-up effective January 1, 1987. Benefits accruing thereafter under the Scholl Plan were funded pursuant to the 1988 Montreal Trust agreement. A deposit of \$173,683.43 was made to Montreal Trust Company of Canada on August 2, 1988 and it covered benefits accrued between January 1, 1987 and June 30, 1988.

The Partial Wind up

The Plan was partially wound up as at August 31, 1996. Schering filed a partial wind up report dated February 19, 1997, stating that the surplus was \$416,585.00. The report did not specifically clarify whether the surplus amount referred to the partial wind up or to the Plan as a whole. The solvency liabilities for the eleven members affected by the partial wind up were \$339,198.00. The total solvency liabilities as of the date of the partial wind up were \$999,796.00.

In a letter to Schering dated February 24, 1998, the Superintendent pursuant to her authority under subsection 70(3) of the *Pension Benefits Act*, R.S.O. 1990, c.P8 (the "Act") authorized the distribution of assets to the members, former members and other persons affected by the partial wind up. In the same letter, the Superintendent advised Schering that the surplus attributable to members, former members and other persons affected by the partial wind up must be dealt with in

accordance with the Act.

On July 29, 1998, the Plan Members wrote to the Superintendent. They took the position that surplus must be distributed on a partial wind up and requested that the Superintendent require Schering to file a supplement to the partial wind up report setting out Schering's proposals for the distribution of surplus.

On August 31, 1998, Schering wrote to the Superintendent in response stating that Schering had dealt with the surplus in accordance with the Act and that no distribution of surplus was required.

On September 15, 1998, Ms. Penny McIlraith, Pension Officer of the Financial Services Commission of Ontario ("FSCO"), wrote to Schering. She requested that an amendment to the partial wind up report be filed by November 20, 1998, making provision for the distribution of surplus.

On October 15, 1998, Schering responded to FSCO and indicated that it would not be preparing an amendment to the wind up report to provide for a distribution of surplus since it was of the view that no distribution of surplus was required.

On October 14, 1999, the Superintendent issued a Notice of Proposal to make an order, on the basis of subsections 70(5), 87(2)(c) and 88(2)(c) of the Act, that would require Schering to prepare and submit, within 60 days, a report amending that portion of the partial wind up report dealing with surplus attributable to members of the Plan affected by the partial wind up.

On November 10, 1999, Schering requested a hearing pursuant to subsection 89(6) of the Act in relation to the Superintendent's proposal to order Schering to amend the partial wind up report.

Plan Wind up

On July 15, 2004 the Plan's actuaries filed a wind up valuation and report as at May 30, 2003, indicating a wind up deficit of \$199,595. The wind up deficit takes into consideration \$211,667 of liabilities in respect of the portion of the surplus "tagged" for the partial wind up.

ANALYSIS

Surplus Entitlement

Schering argued that it was entitled to surplus under the Plan pursuant to section 12.04 of the 1988 Plan. Section 12.04 provides:

If there are any assets remaining after the liabilities for all benefits accrued under the Plan have been met, they shall be returned to the Company subject to any Applicable Legislation.

While the 1988 Plan seems to make it clear that Schering is entitled to any surplus, the 1988 Plan was not the first pension plan to provide pension benefits to employees of Schering or its predecessors. It was preceded by at least 3 former pension plans – the Scholl Plan, the Plough Plan, and the Prior Plough Plan (the "Former Plans"). A member of any of the Former Plans employed by Scholl-Plough (later Schering) on July 1, 1988, automatically became a member of the 1988 Plan. A review of the 1988 Plan is thus not the end of the necessary inquiry.



An applicant seeking to establish entitlement to pension surplus must demonstrate either that the plan was not subject to a trust and the contractual terms did not confer surplus entitlement on the members or, if the plan is impressed with a trust, the applicant has been entitled to plan surplus from the inception of **the plan, or that it was authorized from inception to amend the plan to make the employer the beneficiary of the surplus.** Thus, it is necessary to look to the complete plan and trust documents from the inception of the Plan to determine surplus entitlement, whether on a partial or full wind-up.¹

Schering based its argument for entitlement to the surplus on a reading of the Plan documents dating back to the inception of the Scholl Plan, and back to 1982 in connection with the Plough Plan. Nothing in those documents would appear to derogate from Schering's position that it is entitled to the surplus, nor was any such argument made by the Superintendent before us. That is not, however, the end of the inquiry.

The 1982 Plough Plan text stated in its introduction:

As at July 1, 1955, Schering Canada Inc. adopted The Retirement Income Plan for Employees of Schering Canada Inc. (the "Predecessor Plan"). Effective May 1, 1971 eligible Plough Canada Inc. employees became covered for pension benefits under the Predecessor Plan.

The Predecessor Plan was amended from time to time. The most recent substantive amendment became effective as at January 1, 1975.

As at January 1, 1982 Plough Canada Inc. (the "Company") adopted the Plough Canada Inc. Employees' Pension Plan (the "Plan").

The Plan is an amendment and restatement of the Predecessor Plan with respect to all Employees of the Company who were members of such plan and, as such, the Plan incorporates and preserves the entitlements and benefits accrued by such members prior to January 1, 1982 under the Predecessor Plan.

Unfortunately in this case, an examination of all of the relevant Plan documents is not possible as none of the documents pertaining to the Prior Plough Plan are currently available. Nor was any evidence adduced to speak to the nature of those documents, save for a reference to a group annuity insurance contract discussed below. There is thus uncertainty as to whether or not the Plough Plan, from its inception, was subject to a trust, or whether the employer was entitled to surplus, or whether the power to revoke any trust existed at that date. A plan amendment from 1975 is also missing, so that no information is available to assist us in understanding how the Prior Plough Plan might have changed at that time.

Schering argued that a review of the documents was not necessary because the 1982 Plough Plan referenced the fact that the provisions of the Prior Plough Plan were set forth in a group annuity insurance contract, and that trust law doesn't apply in that context. This Tribunal has addressed this issue before, in the Corporation of the City of Kitchener case², relying on the Ontario Court of Appeal in *Howitt v. Howden Group/Canada*

¹ *Schmidt v. Air Products of Canada Ltd.* (1994), 3 C.C.P.B. 1 (S.C.C.)

² *The Corporation of the City of Kitchener v. Superintendent of Financial Services*, FST File No. P0172-2001, June 24, 2004.



*Ltd.*³, where the Court of Appeal specifically held that “[f]unding by way of a contract is not, however, necessarily inconsistent with the intention to create a pension trust”. It depends in each case on an assessment of the language of the document(s) in issue. Without the documents, such an assessment cannot be made.

The missing documents are therefore critical to a determination of the issue of entitlement. Without them it is not possible to ascertain the original nature of the Plan.

Schering must demonstrate its entitlement to the surplus based on an examination of all plan and trust documents from the Plan’s inception⁴, which, because of the uncertainty caused by the missing documents, it cannot do. Schering cannot satisfy the “high bar” enunciated in *Schmidt v Air Products Canada Limited*. In the circumstances, therefore, we cannot find that the employer was entitled to the surplus.

Amount of Surplus

We understood from the position of the parties at the hearing that the second issue concerning the amount of surplus attributable to the partial wind-up is no longer in issue, in that the Superintendent is prepared to accept Schering’s methodology used to determine an interim amount for discussion purposes as at May 30, 2003. The actual amount can only be determined as at the date of distribution. This will require a “roll-forward” of the amount calculated by Schering as at May 30, 2003, to the date of distribution. The Superintendent requested that Schering provide a more up to date number to Plan Members, and we see no reason why this should not be done at this

time. We make no further comments on this issue, but leave it to the parties to work out at the appropriate time.

Superintendent’s Authority

The third issue concerns the authority of the Superintendent to refuse to approve a partial wind-up report where the employer is entitled to surplus, on the basis of the lack of distribution of surplus to members on partial wind-up. As this Tribunal has found that in this case Schering has not satisfactorily proven that it is entitled to the surplus, there is no need to address this issue.

As the Supreme Court of Canada has made clear in *Monsanto Canada Inc. v. Superintendent of Financial Services*⁵, members of a pension plan affected by a partial wind-up are entitled to the same rights as they would have received on a full wind-up. This includes rights to surplus distribution. Acting on its assumption that it had full entitlement to the surplus, Schering advised the Superintendent that no distribution of surplus was required. In light of our finding that Schering has not established an entitlement to the surplus, Schering is required to effect a distribution of surplus in accordance with the Act and its regulations.

The Superintendent has a broad discretion under section 70(5) of the Act to refuse to approve a wind-up report that does not meet the requirements of the Act and the regulations or that does not protect the interests of the members. It has additional powers under section 87 of the Act to require Schering to take any action in respect of the Plan if the Superintendent is of the opinion on reasonable and probable grounds that the

³ *Howitt v. Howden Group Canada Ltd.*, (1999) 170 D.L.R. (4th) 423 (Ont. C.A.)

⁴ *Corporation of the City of Kitchener*, *supra*.

⁵ *Monsanto Canada Inc. v. Superintendent of Financial Services* [2004] 3 S.C.R. 152.

administrator of the Plan is contravening a requirement of the Act or regulations.

In the circumstances of this case, where the employer has not established its entitlement to surplus, where no provision has been made to obtain the consent of the Plan Members to a distribution of the surplus, and where Schering has indicated that no surplus distribution is required, the Superintendent has the authority to refuse to approve the partial wind-up report.

Employee Consent

It is not necessary for this Tribunal to address the fourth or fifth issues concerning the validity of section 8 of Regulation 909 of the Act, given our finding with respect to surplus entitlement.

CONCLUSION

This case raises interesting and complex issues concerning surplus entitlement, the Superintendent's authority, and the validity of the consent requirements of Regulation 909. The primary, and underlying, issue was a determination of surplus entitlement. We find that the missing documents cause too much uncertainty about the underlying nature of the Plan, and whether or not it was impressed with trust at its inception. Schering thus could not establish with sufficient certainty that it had an entitlement to the surplus. In the circumstances, the remaining issues must be left to be determined on other facts another day.

The Superintendent may proceed with the Notice of Proposal dated October 14, 1999.

Dated at the City of Toronto this 12 th day of April, 2006.

Lily Harmer
Chair of the Panel and Member of the Tribunal

Shiraz Bharmal
Member of the Panel and of the Tribunal

David A. Short
Member of the Panel and of the Tribunal



